Tab 1	**SB 1106** by **Flores**; (Compare to CS/CS/CS/H 1383) Limited Purpose International Trust Company Representative Offices					
451028	D	S	RCS	AGG, Hays	Delete everything after	02/24 06:32 PM
334080	AA	S	RCS	AGG, Hays	Delete L.21 - 257:	02/24 06:32 PM

Tab 2	**CS/SB 1152** by **CA, Diaz de la Portilla**; (Identical to CS/H 0067) Classified Advertisement Websites

Tab 3	**CS/SB 1192** by **EP, Hays**; (Compare to H 1387) Waste Management					
751884	A	S	RCS	AGG, Hays	Delete L.53 - 195:	02/24 06:34 PM

Tab 4	**CS/SB 1248** by **BI, Diaz de la Portilla**; (Compare to H 0177) Prohibited Insurance Practices

Tab 5	**CS/SB 1274** by **BI, Latvala**; (Similar to CS/CS/H 1327) Limited Sinkhole Coverage Insurance					
~~906798~~	A	S	WD	AGG, Hays	Delete L.167 - 170.	02/24 06:36 PM
382928	A	S	RCS	AGG, Hays	Delete L.177 - 180.	02/24 06:36 PM

Tab 6	**SB 1290** by **Simpson**; (Similar to CS/CS/1ST ENG/H 1075) State Lands					
647570	A	S	RS	AGG, Simpson	btw L.2983 - 2984:	02/24 06:41 PM
631368	SD	S	RCS	AGG, Simpson	Delete everything after	02/24 06:41 PM
588592	ASA	S L	RCS	AGG, Simpson	Delete L.1805 - 1822.	02/24 06:41 PM

Tab 7	**CS/SB 1430** by **GO, Brandes**; (Compare to CS/CS/H 1195) State Technology					
946636	A	S	RCS	AGG, Altman	Delete L.97 - 121:	02/24 06:41 PM
518650	AA	S	RCS	AGG, Altman	Delete L.11 - 19:	02/24 06:41 PM
931850	A	S L	RCS	AGG, Altman	btw L.169 - 170:	02/24 06:41 PM

Tab 8	**SB 1504** by **Bean**; (Compare to CS/CS/3RD ENG/H 0941) Credit for Relevant Military Service					
813092	D	S	RCS	AGG, Altman	Delete everything after	02/24 06:42 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT
Senator Hays, Chair
Senator Braynon, Vice Chair

MEETING DATE: Wednesday, February 24, 2016
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Hays, Chair; Senator Braynon, Vice Chair; Senators Altman, Dean, Lee, Margolis, and Simpson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1106** Flores (Compare CS/CS/H 1383, H 1385, Linked CS/CS/S 1094)	Limited Purpose International Trust Company Representative Offices; Providing applicability of state banking laws to limited purpose international trust company representative offices; exempting a limited purpose international trust company representative office from licensing requirements; exempting applications for registration of limited purpose international trust company representative offices from certain provisions of ch. 120, F.S.; specifying permissible and prohibited activities by a limited purpose international trust company representative office and by certain employees, etc. BI 01/26/2016 Favorable AGG 02/24/2016 Fav/CS AP	Fav/CS Yeas 5 Nays 0
2	**CS/SB 1152** Community Affairs / Diaz de la Portilla (Identical CS/H 67)	Classified Advertisement Websites; Authorizing local governmental bodies to designate a specified number of safe-haven facilities in each county based upon population size; authorizing a local governmental body to approve the use of local government buildings to serve as safe-haven facilities, etc. CA 02/16/2016 Fav/CS AGG 02/24/2016 Favorable FP	Favorable Yeas 5 Nays 0
3	**CS/SB 1192** Environmental Preservation and Conservation / Hays (Compare H 1387)	Waste Management; Prohibiting a local government from preventing a private company from listing separately on an invoice for solid waste collection, disposal, or recycling any governmental taxes and fees; revising provisions relating to solid waste collection services to include disposal and recycling services; establishing the crime of theft of recyclable property, etc. EP 02/09/2016 Fav/CS AGG 02/24/2016 Fav/CS FP	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 1248** Banking and Insurance / Diaz de la Portilla (Compare H 177, CS/H 671)	Prohibited Insurance Practices; Adding entities and persons that may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster; prohibiting a person or entity from certain actions relating to the referral of certain business related to certain repair, mitigation, and restoration services; authorizing the Department of Financial Services to seek a cease and desist order and administrative fines for certain violations, etc. BI 02/16/2016 Fav/CS AGG 02/24/2016 Favorable AP	Favorable Yeas 5 Nays 0
5	**CS/SB 1274** Banking and Insurance / Latvala (Similar CS/H 1327)	Limited Sinkhole Coverage Insurance; Specifying the amount of surplus funds required for domestic insurers applying for a certificate of authority to provide limited sinkhole coverage insurance; authorizing certain insurers to offer limited sinkhole coverage insurance in this state; requiring an insurer to provide a specified notice of changes to rates within a specified time frame to the Office of Insurance Regulation, etc. BI 02/09/2016 Fav/CS AGG 02/24/2016 Fav/CS FP	Fav/CS Yeas 5 Nays 0
6	**SB 1290** Simpson (Similar CS/CS/H 1075)	State Lands; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies, etc. EP 02/09/2016 Favorable AGG 02/24/2016 Fav/CS AP	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 1430** Governmental Oversight and Accountability / Brandes (Compare CS/CS/H 1195)	State Technology; Establishing a chief data officer within the Agency for State Technology who shall be appointed by the executive director; authorizing the Agency for State Technology to oversee the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee; requiring the Department of Highway Safety and Motor Vehicles, in coordination with the Agency for State Technology, to develop, rather than begin to review and prepare for the development of, a system for issuing an optional digital proof of driver license for a specified fee, subject to certain requirements, etc. GO 02/09/2016 Fav/CS AGG 02/24/2016 Fav/CS AP	Fav/CS Yeas 5 Nays 0
8	**SB 1504** Bean (Compare CS/CS/H 941, H 7105, CS/S 918)	Credit for Relevant Military Service; Providing for the issuance of a license to practice under certain conditions to a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the military; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to provide a method by which honorably discharged veterans may apply for licensure, etc. HP 01/26/2016 Temporarily Postponed HP 02/01/2016 Favorable AGG 02/24/2016 Fav/CS AP	Fav/CS Yeas 5 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/SB 1106 (626078)
INTRODUCER:	Appropriations Subcommittee on General Government and Senator Flores
SUBJECT:	International Trust Entities
DATE:	February 26, 2016 REVISED: 02/27/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Betta/Johnson	DeLoach	AGG	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1106 revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR).The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the off shore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, "international trust entity," to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR's authority to enforce other provisions of the Financial Institutions Codes.

The bill provides additional duties to the OFR which can be absorbed within existing resources.

The bill takes effect on October 1, 2016.

II. Present Situation:

International Financial Services Market

A longstanding niche market within the international financial services market is the provision of fiduciary (trustee) services required for the implementation of estate, tax, and asset protection planning. These services traditionally have comprised the administration (documentation preparation, accounting, compliance, and accounting) for a trust and its underlying investments. Services such as banking, asset management, and tax advice, are provided by third parties, as described in the following example:[1]

> Example: A family from Latin America purchasing a residence in Florida has a banking relationship with a Florida-based bank and is advised by Florida counsel. To avoid exposure to U.S. estate tax, the family will be advised to own the property through a non-U.S. company, as the shares in the non-U.S. company are not subject to U.S. estate tax. To provide for the family's long-term planning (local and foreign tax laws and political and security risks), the family may be advised to place the shares in the company's foreign trust.[2]

In the above example, responsibility for the administration of the trust and the underlying company is given to a trust company, which provides this service for a fee. The trust company generally will be part of an organization that provides this service in multiple jurisdictions. The trust company does not promote, sell or accept any financial investments, money, or provide depository or custodial accounts. An international trust company representative office may operate as the Florida-based marketing office for the aforementioned fiduciary services provided by a foreign trust company.[3] Because many of the families who establish foreign trusts travel to Miami, the ITCROs may provide a convenient way for these families to monitor the services of the international trust company without having to travel to the jurisdiction where the trust company has its operations.

State Regulation of International Banking Activities

The Office of Financial Regulation (OFR) is charged with regulating depository and non-depository financial institutions and financial service companies. One of the OFR's primary goals is to protect consumers from financial fraud while preserving the integrity of Florida's markets and financial service industries. To achieve this goal, Florida law provides the OFR with regulatory authority over entities regulated under the Financial Institutions Codes. [4]

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[1] Memorandum from McDonald Hopkins LLC on behalf of the Florida International Administrators Association, *International Trust Company Representative Offices,* (Mar. 8, 2015) (on file with Senate Committee on Banking and Insurance).
[2] *Id.*
[3] *Id.*
[4] Financial Institutions Codes include chs. 655 relating to financial institutions generally, 657 relating to banks and trust companies, 660 relating to trust business, 662 family trust companies, 663 relating to international banking, 665 relating to associations, and 657 relating to savings banks.

International Banking Corporations

The OFR regulates international banking corporations[5] that transact business in Florida. Such entities are subject to licensure by the OFR[6] to transact business in Florida. International banking entities enable depository institutions in the United States to offer deposit and loan services to foreign residents and institutions, and are subject to the jurisdiction of the Board of Governors of the Federal Reserve. The OFR does not regulate institutions that are chartered and regulated by foreign jurisdictions, except to the extent that those foreign institutions seek to engage in the banking or trust business in Florida. If foreign institutions do so, they must obtain a Florida charter and comply with the provisions of ch. 663, F.S., and the applicable Financial Institution Codes.

An international banking corporation may operate through a variety of business models, all of which must be licensed.[7] These models include international bank agencies,[8] international representative offices,[9] international trust company representative offices,[10] international administrative offices,[11] and international branches.[12] The definition of "financial institution"[13] includes international bank agency, an international banking corporation, international branch, international representative office, international administrative office, and international trust company representative office.

If an international banking corporation (IBC) wants to operate an office in this state, including an international trust company representative office, the IBC is required to meet minimum licensure requirements, ongoing safety and soundness requirements, and is subject to the examination and enforcement authority of the OFR including state anti-money laundering and anti-terrorism laws. The OFR may not issue a license to an international banking corporation unless it:

- Holds an unrestricted license to conduct trust business in the foreign country under the law of which it is organized and chartered;
- Has been authorized by the foreign country's trust business regulatory authority to establish the proposed international trust representative office;
- Is adequately supervised by the central bank or trust regulatory agency in the foreign country in which it is organized and chartered;[14]

[5] An international banking corporation, such as a foreign commercial bank, foreign merchant bank, or other foreign institution that engages in banking activities usual in connection with the business of banking in the country where such foreign institution is organized or operating. The term also includes foreign trust companies, or any similar business entities, including, but not limited to, foreign banks with fiduciary powers, that conduct trust business as defined in the codes. See Section 663.01(6), F.S.
[6] Sections 663.04 and 663.05, F.S.
[7] Section 663.06(1), F.S.
[8] Section 663.061, F.S.
[9] Section 663.062, F.S.
[10] Section 663.0625, F.S.
[11] Section 663.063, F.S.
[12] Section 663.064, F.S.
[13] Section 655.005(i), F.S.
[14] Section 663.05(9), F.S. requires the OFR to establish general principles to evaluate the adequacy of supervision of an international banking corporation's foreign establishments. These principles must be based upon the need for cooperative supervisory efforts and must address at a minimum, the capital adequacy, asset quality, management, earnings, liquidity, internal controls, audits, and foreign exchange operations and positions of the international banking corporation. *See* Rule 69U-140.003, F.A.C., *Principles of Adequate Supervision of an International Banking Corporation's Foreign Establishment.*

- Meets all requirements under the Financial Institutions Codes for the operation of a trust company or trust department as if it was a state-chartered trust company or bank authorized to exercise fiduciary powers; and
- Meets a minimum capital requirement of $20 million.

Section 663.02, F.S., provides that international banking corporations having offices in Florida are subject to the provisions of ch. 655, F.S., as though such corporations were state banks or trust companies. Further, s. 663.02, F.S., provides that neither an international bank agency nor an international branch shall have any greater right under, or by virtue of s. 663.02, F.S., than is granted to banks organized under the laws of this state. Section 663.02, F.S., provides that it is the intent of the Legislature that the following provisions apply to such entities:

- Section 655.031, F.S., relating to administrative enforcement guidelines;
- Section 655.032, F.S., relating to investigations, subpoenas, hearings, and witnesses;
- Section 655.0321, F.S., relating to hearings, proceedings, related documents, and restricted access;
- Section 655.033, F.S., relating to cease and desist orders;
- Section 655.037, F.S., relating to removal by the office of an officer, director, committee member, employee, or other person;
- Section 655.041, F.S., relating to administrative fines and enforcement; and
- Section 655.50, F.S., relating to the control of money laundering and terrorist financing; and any law for which the penalty is increased under s. 775.31 F.S., for facilitating or furthering terrorism.

International Bank Agencies and International Branches. International bank agencies and international branches are permitted to conduct activities similar to those of a domestic bank. An international bank agency may make and service loans, act as a custodian, furnish investment advice, conduct foreign exchange activities and trade in securities and commercial paper.[15] An international branch has the same rights and privileges as a federally licensed international branch.[16]

International Representative Offices and International Administrative Offices. International representative offices and international administrative offices perform activities that are more limited. An international representative office may solicit business, provide information to customers concerning their accounts, answer questions, receive applications for extensions of credit and other banking services, transmit documents on behalf of customers, and make arrangements for customers to transact business on their accounts. [17] An administrative office may provide personnel administration, data processing or recordkeeping, and negotiate, approve, or service loans or extensions of credit and investments.[18]

The rule provides that the term, "international banking corporation," also includes foreign trust companies. The rule provides that the term, "comprehensive supervision," includes the ability and willingness of the home country supervisor to provide the OFR early notice of any financial weakness being experienced by the international banking corporation, including its offices or subsidiaries. Further, it includes the ability of the home country supervisor to provide the OFR assurance of cooperation by both the international banking corporation and the home country supervisor.

[15] Section 663.061, F.S.

[16] Section 663.064, F.S.

[17] Section 663.062, F.S.

[18] Section 663.063, F.S.

International Trust Company Representative Offices. An ITCRO is an office of an international banking corporation or trust company organized and licensed under the laws of a foreign country, which is established or maintained in Florida for engaging in non-fiduciary activities described in s. 663.0625, F.S. An ITCRO may also include any affiliate, subsidiary, or other person that engages in such activities on behalf of such international banking corporation or trust company from an office located in Florida.[19]

The ITCROs are not banks and may not accept deposits or make loans. The activities of a licensed ITCRO are limited to engaging in the following non-fiduciary activities that are ancillary to the trust business of the international banking corporation:

- Advertising, marketing, and soliciting for fiduciary business on behalf of an international banking corporation or trust company;
- Contacting existing or potential customers;
- Answering questions and providing information about matters related to customer accounts;
- Serving as a liaison in Florida between the international banking corporation or trust company and its existing or potential customers (e.g., forwarding requests for distribution or changes in investment objectives, or forwarding forms and funds received from the customer); and
- Such other activities as may be approved by the OFR or rules of the Financial Services Commission.[20]

As of February 2016, there are no ITCROs licensed with the OFR; however, two international administrative offices, ten international bank agencies, six international representative offices, and six international bank branches are licensed with the OFR.[21]

2010 Legislation

In 2010, legislation[22] was enacted to establish the OFR's oversight responsibilities of "offshore" international non-depository trust companies that wanted to maintain an ITCRO in Florida and to address issues posed by shadow banking activities conducted by unregulated entities in Florida that present a high risk of allowing money laundering, terrorist financing, and other illicit activities.[23] The legislation defined the ITCRO entity and established the licensing and regulatory requirements for these entities under the OFR. This legislation was due, in part, to the exposure of the $8 billion dollar Ponzi scheme perpetrated by Allen Stanford.

Allen Stanford controlled an international group of privately held financial services companies under the umbrella organization Stanford Financial Group, which included Stanford Trust Company Limited (Stanford Trust), a non-depository trust company organized under the laws of Antigua and Barbuda. In late 1998, the Division of Banking within the Department of Banking

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[19] Section 663.01(9), F.S.
[20] Section 663.0625, F.S.
[21] Office of Financial Regulation, *Financial Institution Search*, at https://real.flofr.com/ConsumerServices/FinancialInstitutions/InstSrch.aspx (last visited February 20, 2016).
[22] Ch. 2010-9, Laws of Fla.
[23] Office of Financial Regulation, *2016 Agency Legislative Bill Analysis, SB 1106* (Jan. 19, 2016) (on file with the Senate Committee on Banking and Insurance).

and Finance[24] entered into a memorandum of understanding (MOU)[25] with the Stanford Trust. This MOU allowed the Stanford Trust to establish a trust representative office in Florida, and delineated permissible and impermissible activities.

In this particular Ponzi scheme, certificates of deposits that promised above market rate returns were sold to customers of the Stanford Financial Group through offices in the United States and abroad with the sales of new accounts being used to fund payments on older certificates and fund Stanford's business operations and lifestyle. Because Florida law did not address representative offices of international non-depository trust companies at that time, Mr. Stanford was able to facilitate his scheme in Florida through the establishment of a representative office of Stanford Trust Company Limited in Miami, Florida. Stanford International Bank, LTD issued the certificates of deposit used to facilitate the scheme, which was also located in Antigua. The scheme is alleged to have involved over 30,000 clients in 136 countries on six continents.

The Financial Action Task Force

The Financial Action Task Force (FATF) is the global standard setting body for anti-money laundering and combating the financing of terrorism (AML/CFT).[26] The FATF identifies jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system, thereby protecting the international financial system from money laundering and financing of terrorism risks and encouraging greater compliance with the AML/CFT standards.

III. Effect of Proposed Changes:

Sections 1 and 2 amend s. 663.01, F.S., and create s. 663.041, F.S., to impose a moratorium on the OFR's enforcement of ch. 663.04(4), F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the international trust company representative office (ITCRO) activities described in s. 663.0625, F.S., if certain conditions are met. Further, the moratorium includes any employee or person who manages or controls such an organization or entity that engages in the ITCRO activities. The moratorium is effective until June 30, 2017, for any Florida organization or entity and the ITE. An ITE is defined to mean an international trust company, an international business, an international business organization, or an affiliated or subsidiary entities that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.

Eligibility Requirements for Moratorium

The moratorium on the enforcement of licensing requirements applies to any person who manages or controls or is employed by an organization or entity providing services to an ITE that engages in ITCRO activities that:

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[24] Predecessor of the Division of Financial Institutions of the Office of Financial Regulation. *See* ch. 2003-361, Laws of Fla.
[25] State of Florida, Department of Banking and Finance and Stanford Trust Company Limited, Memorandum of Agreement (Dec. 1998) (on file with Senate Committee on Banking and Insurance).
[26] Members of the FATF include 34 member jurisdictions (including the United States) and 2 regional organizations. See http://www.fatf-gafi.org/home/ (last visited Jan. 20, 2016).

- Has been organized to conduct business in Florida before October 1, 2013;
- Has not been fined or sanctioned as a result of any complaint with the OFR or any other state or federal regulatory agency;
- Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any local, state, foreign law enforcement or international agency within ten years before the effective date of the moratorium;
- Has not had any of its directors, executive directors, principal shareholders, or managers or employees arrested for, charged with, convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for one year or more, or to any offense involving money laundering, tax evasion, fraud, or that is otherwise related to the operation of a financial institution within ten years before the effective date of this section;
- Does not provide any services to any ITE that is in in bankruptcy, conservatorship, receivership, liquidation, or similar status under the laws of any country;
- Does not provide banking services or promote or sell investments or accept custody of assets;
- Does not act as a fiduciary, including but not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, make discretionary decisions regarding the investment or distribution of fiduciary accounts; and,
- Conducts those activities permissible for an ITCRO, as described in s. 663.0625, F.S.

Application Process for the Moratorium

An organization or entity that requests to qualify for this moratorium must notify the OFR in writing by July 1, 2016, and provide:

- Written proof the business has been organized and doing business in Florida before October 1, 2013;
- Name or names under which it conducts business in Florida;
- Address of its locations from which it conducts business and a detailed description of the activities being conducted at the locations;
- Name of each ITE, the country it is organized, and its officers and directors for which the organization or entity provides services in Florida.

The organization or entity must also provide assurance about each of these ITEs including that the ITE:

- Has authority to engage in trust business;
- Is in good standing and lawfully exists under the laws of the jurisdiction it is authorized;
- Is not in bankruptcy, or similar status; and
- Is not operating under the direct control of the government or other regulatory authority within seven years before the date of the moratorium notification to the OFR.

The organization or entity must include with the required information a declaration under penalty of perjury signed by the executive officer or managing member that the information provided to the OFR is true and correct to the best of his or her knowledge.

The OFR's Role and Authority

Processing Requests for Moratorium

In processing a request to qualify for the moratorium, the OFR must confirm the following information provided by an organization, entity or the ITE:

- Each ITE is adequately supervised by the appropriate regulatory authority that has similar responsibilities in the foreign country in which it is organized, chartered or licensed, or has similar authorization by operation of law. An ITE with foreign establishments is considered to be adequately supervised if it is subject to consolidated supervision. Consolidated supervision is supervision which enables the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity or recognized authority that has similar responsibilities of the home country, to evaluate the safety and soundness of the ITE operations. Further, the bill provides additional requirements relating to adequate supervision.
- An ITE (including its officers or subsidiaries) is considered adequately supervised if it is subject to comprehensive supervision. The bill provides that comprehensive supervision is supervision that ensures the supervisory processes and procedures are designed to inform the home country supervisor about the ITE's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and the capability of management. The bill provides additional requirements relating to comprehensive supervision.
- The jurisdiction of the ITE or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the ITE, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

Upon receipt of a moratorium request, the OFR will review the information and request any additional information to complete the request for the moratorium within 30 days after receipt. The organization or entity must provide the additional information within 45 days after the receipt of the notice from the OFR. If the OFR does not request the additional information within 30 days after receipt, the moratorium request is deemed complete as of the date it was received. Within 20 days after receipt of any additional information requested, the OFR must deem the request complete or provide notification to the organization or entity that the information provided does not satisfy the OFR's request.

Within 90 days after receipt of a completed notification, the OFR must confirm with the organization or entity if they are or are not a party to the moratorium. If the OFR fails to notify the organization or entity within the 90 days whether the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium.

Enforcement Authority

During the moratorium period, the OFR may conduct an onsite visitation of an organization or entity operating in Florida to confirm information provided to the OFR in deeming the organization or entity qualified for the moratorium. If the OFR finds that the organization or entity made a material misstatement in its request to qualify for the moratorium, the OFR must issue an immediate final order suspending the qualification of the organization or entity.

The bill provides that the moratorium does not affect the OFR's authority to otherwise enforce the Financial Institutions Codes.

Section 3 repeals s. 663.041, F.S., and the amendments to s. 663.01, F.S., July 1, 2017.

Section 4 provides the bill will take effect on becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. The bill provides a moratorium on the OFR enforcement of licensure requirements on Florida-based onshore entities engaging in marketing, and other ITCRO activities described under s. 663.0625, F.S., on behalf of ITEs until June 30, 2017. The moratorium would apply to the Florida-based entity and the ITE.[27] An estimated 12 to 15 organizations or entities may qualify for the moratorium. [28]

C. Government Sector Impact:

While the bill provides additional duties associated with the moratorium process for the OFR, no additional funds are needed to fulfill this workload.[29]

[27] Email from M. Hinshelwood, Office of Financial Regulation (Feb. 24, 2016) (on file with the Senate Committee on Banking and Insurance).
[28] Telephone interview with J. Mongiovi, Office of Financial Regulation (Feb. 19, 2016) (on file with the Senate Committee on Banking and Insurance). The Florida International Administrators Association provided the estimate to the OFR.
[29] Email from J. Mongiovi, Office of Financial Regulation (Feb. 22, 2016) (on file with the Senate Banking and Insurance Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 663.01 of the Florida Statutes.

This bill creates section 663.041 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on General Government on February 24, 2016:
The CS creates a moratorium on the OFR's enforcement of ch. 663, F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity that engages in ITCRO activities and the offshore international trust entity if certain conditions are met. The moratorium is repealed July 1, 2017.

The CS removes provisions creating the Limited Purpose International Trust Company licensure and regulatory program within the OFR.

B. Amendments:

None.

451028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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Appropriations Subcommittee on General Government (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (10) and (11) of section 663.01, Florida Statutes, are renumbered as subsections (11) and (12), respectively, and a new subsection (10) is added to that section, to read:

663.01 Definitions.—As used in this part, the term:

(10) "International trust entity" means an international

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trust company, an international business, an international business organization, or an affiliated or subsidiary entity that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.

Section 2. Section 663.041, Florida Statutes, is created to read:

663.041 Moratorium on the office's enforcement of licensing requirements for an international trust entity or related entities.—

(1) The office shall delay the enforcement of the requirement under s. 663.04(4) relating to licensure of an organization or entity in this state providing services to an international trust entity that engages in the activities described in s. 663.0625. This delay extends to any person who manages or controls or is employed by such organization or entity that:

(a) Has been organized to conduct business in this state before October 1, 2013;

(b) Has not been fined or sanctioned as a result of any complaint to the office or to any other state or federal regulatory agency;

(c) Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any federal, state, foreign, or local law enforcement agency or international agency within the 10 years before the effective date of this section;

(d) Has not had any of its directors, executive officers, principal shareholders, managers, or employees arrested for,

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charged with, convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for 1 year or more, or to any offense that involves money laundering, currency transaction reporting, tax evasion, facilitating or furthering terrorism, fraud, or that is otherwise related to the operation of a financial institution, within the 10 years before the effective date of this section;

(e) Does not provide services for any international trust entity that is in bankruptcy, conservatorship, receivership, liquidation, or a similar status under the laws of any country;

(f) Does not provide banking services or promote or sell investments or accept custody of assets;

(g) Does not act as a fiduciary, which includes, but is not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, or making discretionary decisions regarding the investment or distribution of fiduciary accounts; and

(h) Conducts those activities permissible for an international trust company representative office as described in s. 663.0625.

(2) This moratorium does not prevent the office from otherwise enforcing the financial institutions codes.

(3) An organization or entity that seeks consideration for this moratorium shall notify the office in writing by letter on official letterhead via United States Postal Service or commercial mail delivery service by July 1, 2016, and shall provide the following:

(a) Written proof that it has been organized to do business in this state before October 1, 2013;


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(b) The name or names under which it conducts business in this state;

(c) The addresses of its locations from which it conducts business;

(d) A detailed list and description of the activities being conducted at the locations from which it conducts business. The detailed description must include the types of consumers that utilize those activities and an explanation of how those activities serve the business purpose of an international trust entity.

(e) As to each international trust entity the organization or entity provides services for in this state, the following:

1. The name of the international trust entity;

2. A list of the current officers and directors of the international trust entity;

3. The country or countries where the international trust entity is organized;

4. The supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has licensing, chartering, oversight, or similar responsibilities over the international trust entity;

5. Proof that the international trust entity has been authorized by a charter, license, or similar authorization by operation of law in its home country jurisdiction to engage in trust business;

6. Proof that the international trust entity lawfully exists and is in good standing under the laws of the jurisdiction where it is chartered, licensed, organized, or

lawfully existing. The organization or entity shall submit a certificate of good standing or equivalent document issued by the supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities, of the country where the international trust entity is licensed, chartered, or has similar authorization by operation of law and is duly organized and lawfully exists;

7. A statement that the international trust entity is not in bankruptcy, conservatorship, receivership, liquidation, or in a similar status under the laws of any country; and

8. Proof that the international trust entity is not operating under the direct control of the government, regulatory, or supervisory authority of the jurisdiction of its incorporation, through government intervention or any other extraordinary actions, and confirmation that it has not been in such a status or under such control at any time within the 7 years before the date of notification to the office.

(f) A declaration under penalty of perjury signed by an executive officer or managing member of the organization or entity, declaring that the information provided to the office is true and correct to the best of his or her knowledge.

(4) In processing the notification and request to qualify for moratorium, the office shall confirm the following:

(a) That the international trust entity is adequately supervised by the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities in the foreign country where it is organized,

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chartered, or licensed, or has similar authorization by operation of law; and

(b) That the jurisdiction of the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

(5) For purposes of establishing adequate supervision under paragraph (4)(a):

(a) An international trust entity with foreign establishments is considered adequately supervised if it is subject to consolidated supervision. As used in this paragraph, "consolidated supervision" means supervision that enables the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities of the home country (home country supervisor) to evaluate:

1. The safety and soundness of the international trust entity's operations located within the home country supervisor's primary jurisdiction; and

2. The safety and soundness of the operations performed by the international trust entity's offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, wherever located.

(b) An international trust entity with no foreign establishments is considered adequately supervised if the home

country supervisor can evaluate the safety and soundness of the international trust entity's operations through its offices or subsidiaries located in the home country. For purposes of this paragraph, the home country supervisor is deemed to be able to evaluate the safety and soundness of the international trust entity if the home country supervisor has the authority to collect and maintain information on the following regulatory components:

1. The technical competence and administrative ability of the management of the international trust entity;

2. The adequacy of the operational, accounting, and internal control systems of the international trust entity, particularly the international trust entity's ability to monitor and supervise the activities of its offices or subsidiaries wherever located;

3. The adequacy of asset management and asset administration policies and procedures;

4. The capital adequacy of the international trust entity, its offices or subsidiaries as specified by any capital adequacy guidelines in the home country;

5. The earnings of the international trust entity; and

6. The external and internal auditors' reports as well as any management comment letters or any documented corrective action by management.

(c) As used in paragraphs (4)(a), (5)(a), and (5)(b), adequate supervision does not necessarily require supervision of companies that control the international trust entity or supervision of companies under common control with the international trust entity but that are not in the international

trust entity's chain of control. However, in cases where a holding company is the only controlling element in a trust business group, holding company supervision by a home country supervisor shall be required when it is needed to ensure consolidated supervision of all trust business entities in the group.

(d) If a holding company is not supervised, adequate supervision is deemed to exist if the home country supervisor regulates transactions between the international trust entity and controlling persons or entities under common control.

(e) An international trust entity and its offices or subsidiaries is deemed to be adequately supervised if it is subject to comprehensive supervision. For purposes of this paragraph, comprehensive supervision:

1. Means supervision that ensures that the supervisory processes and procedures are designed to inform the home country supervisor about the international trust entity's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and capability of management.

2. Does not require the home country supervisor to conduct onsite examinations of the international trust entity or its offices or subsidiaries. However, at a minimum, it requires that the home country supervisor:

a. Is able to determine that the international trust entity and its offices and subsidiaries have adequate procedures for monitoring and controlling its domestic and foreign operations;

b. Is authorized to obtain information, by examination,

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audits or by other means, on the domestic and foreign operations of the international trust entity, including its offices and subsidiaries, and the authority to demand financial reports which permit analysis of the consolidated condition of the international trust entity;

c. Is able to obtain information on the dealings and relationships between the international trust entity and its offices and subsidiaries, wherever located; and

d. Is authorized by the home country's laws to ensure the safety and soundness of the international trust entity and its offices and subsidiaries.

3. Includes the ability and willingness of the home country supervisor to provide the office early notice of any weaknesses being experienced by the international trust entities, including its offices or subsidiaries wherever located.

4. Includes the ability of the home country supervisor to provide the office assurance of cooperation by both the international trust entity and the home country supervisor.

(6) The office shall process requests made by notification for inclusion under the moratorium as follows:

(a) Upon receipt of any request, the office shall review the information contained therein, and request any additional information to complete the notification within 30 days after receipt. The organization or entity shall provide the requested additional information within 45 days after the receipt of the notice from the office. If the office does not make such request within 30 days after receipt, the notification is deemed complete as of the date it was received.

(b) Within 20 days after receipt of any additional

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information requested, the office shall deem the notification complete or provide notification to the organization or entity that the information provided does not satisfy the office's request or requests.

(c) Within 90 days after receipt of a completed notification, the office shall confirm with the organization or entity that they are or are not a party to the moratorium. If the office fails to notify the organization or entity within such time whether or not the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium by operation of law.

(g) During the period of the moratorium, the office may conduct an onsite visitation of an organization or entity to confirm information provided to the office in deeming the organization or entity qualified for the moratorium.

Section 3. Section 663.041, Florida Statutes, and the amendments to section 663.01, Florida Statutes, made by this act, are repealed on July 1, 2017.

Section 4. This act shall take effect upon becoming a law.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to international trust entities; amending s. 663.01, F.S.; defining the term "international trust entity"; creating s. 663.041, F.S.; providing for a moratorium for a specified


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timeframe on enforcement by the Office of Financial Regulation of certain licensure requirements for certain organizations and entities providing services to international trust companies; providing conditions to extend the moratorium to specified persons of the organization or entity; providing for construction; specifying requirements for a letter to the office to qualify as a party to the moratorium; requiring the office to confirm specified findings when processing a request; specifying circumstances for establishing adequate supervision; providing procedures and timeframes for the office’s processing of requests and the office’s requests for additional information; providing timeframes for the office to confirm with the organization or entity whether it has been confirmed as a party to the moratorium; providing for construction if certain timeframes are not met; authorizing the office to conduct an onsite visitation of an organization or entity for a specified purpose until a specified time; providing for future repeal; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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	.	

Appropriations Subcommittee on General Government (Hays) recommended the following:

Senate Amendment to Amendment (451028) (with title amendment)

Delete lines 21 - 257
and insert:
(1) Until June 30, 2017, the office shall delay the enforcement of the requirement under s. 663.04(4) relating to licensure of an organization or entity in this state providing services to an international trust entity that engages in the activities described in s. 663.0625. This delay applies to any

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person who manages or controls or is employed by such organization or entity that:

(a) Has been organized to conduct business in this state before October 1, 2013;

(b) Has not been fined or sanctioned as a result of any complaint to the office or to any other state or federal regulatory agency;

(c) Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any federal, state, foreign, or local law enforcement agency or international agency within the 10 years before the effective date of this section;

(d) Has not had any of its directors, executive officers, principal shareholders, managers, or employees arrested for, charged with, convicted of, or plead guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for 1 year or more, or to any offense that involves money laundering, currency transaction reporting, tax evasion, facilitating or furthering terrorism, fraud, or that is otherwise related to the operation of a financial institution, within the 10 years before the effective date of this section;

(e) Does not provide services for any international trust entity that is in bankruptcy, conservatorship, receivership, liquidation, or a similar status under the laws of any country;

(f) Does not provide banking services or promote or sell investments or accept custody of assets;

(g) Does not act as a fiduciary, which includes, but is not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, or

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making discretionary decisions regarding the investment or distribution of fiduciary accounts; and

(h) Conducts those activities permissible for an international trust company representative office as described in s. 663.0625.

(2) This moratorium does not prevent the office from otherwise enforcing the financial institutions codes.

(3) An organization or entity that requests to qualify for this moratorium shall notify the office in writing by letter on official letterhead via United States Postal Service or commercial mail delivery service by July 1, 2016, and shall provide the following:

(a) Written proof that it has been organized to do business in this state before October 1, 2013;

(b) The name or names under which it conducts business in this state;

(c) The addresses of its locations from which it conducts business;

(d) A detailed list and description of the activities being conducted at the locations from which it conducts business. The detailed description must include the types of consumers that utilize those activities and an explanation of how those activities serve the business purpose of an international trust entity.

(e) As to each international trust entity the organization or entity provides services for in this state, the following:

1. The name of the international trust entity;

2. A list of the current officers and directors of the international trust entity;

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3. The country or countries where the international trust entity is organized;

4. The supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has licensing, chartering, oversight, or similar responsibilities over the international trust entity;

5. Proof that the international trust entity has been authorized by a charter, license, or similar authorization by operation of law in its home country jurisdiction to engage in trust business;

6. Proof that the international trust entity lawfully exists and is in good standing under the laws of the jurisdiction where it is chartered, licensed, organized, or lawfully existing. The organization or entity shall submit a certificate of good standing or equivalent document issued by the supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities, of the country where the international trust entity is licensed, chartered, or has similar authorization by operation of law and is duly organized and lawfully exists;

7. A statement that the international trust entity is not in bankruptcy, conservatorship, receivership, liquidation, or in a similar status under the laws of any country; and

8. Proof that the international trust entity is not operating under the direct control of the government, regulatory, or supervisory authority of the jurisdiction of its incorporation, through government intervention or any other

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extraordinary actions, and confirmation that it has not been in such a status or under such control at any time within the 7 years before the date of notification to the office.

(f) A declaration under penalty of perjury signed by an executive officer or managing member of the organization or entity, declaring that the information provided to the office is true and correct to the best of his or her knowledge.

(4) In processing the request to qualify for the moratorium, the office shall confirm the following:

(a) That the international trust entity is adequately supervised by the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities in the foreign country where it is organized, chartered, or licensed, or has similar authorization by operation of law; and

(b) That the jurisdiction of the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

(5) For purposes of establishing adequate supervision under paragraph (4)(a):

(a) An international trust entity with foreign establishments is considered adequately supervised if it is subject to consolidated supervision. As used in this paragraph, "consolidated supervision" means supervision that enables the

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appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities of the home country (home country supervisor) to evaluate:

1. The safety and soundness of the international trust entity's operations located within the home country supervisor's primary jurisdiction; and

2. The safety and soundness of the operations performed by the international trust entity's offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, wherever located.

(b) An international trust entity with no foreign establishments is considered adequately supervised if the home country supervisor can evaluate the safety and soundness of the international trust entity's operations through its offices or subsidiaries located in the home country. For purposes of this paragraph, the home country supervisor is deemed to be able to evaluate the safety and soundness of the international trust entity if the home country supervisor has the authority to collect and maintain information on the following regulatory components:

1. The technical competence and administrative ability of the management of the international trust entity;

2. The adequacy of the operational, accounting, and internal control systems of the international trust entity, particularly the international trust entity's ability to monitor and supervise the activities of its offices or subsidiaries wherever located;

3. The adequacy of asset management and asset administration policies and procedures;

4. The capital adequacy of the international trust entity, its offices or subsidiaries as specified by any capital adequacy guidelines in the home country;

5. The earnings of the international trust entity; and

6. The external and internal auditors' reports as well as any management comment letters or any documented corrective action by management.

(c) As used in paragraphs (4)(a), (5)(a), and (5)(b), adequate supervision does not require supervision of companies that control the international trust entity or supervision of companies under common control with the international trust entity but that are not in the international trust entity's chain of control. However, in cases where a holding company is the only controlling element in a trust business group, holding company supervision by a home country supervisor shall be required when it is needed to ensure consolidated supervision of all trust business entities in the group.

(d) If a holding company is not supervised, adequate supervision is deemed to exist if the home country supervisor regulates transactions between the international trust entity and controlling persons or entities under common control.

(e) An international trust entity and its offices or subsidiaries is deemed to be adequately supervised if it is subject to comprehensive supervision. For purposes of this paragraph, comprehensive supervision:

1. Means supervision that ensures that the supervisory processes and procedures are designed to inform the home country

supervisor about the international trust entity's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and capability of management.

2. Does not require the home country supervisor to conduct onsite examinations of the international trust entity or its offices or subsidiaries. However, at a minimum, it requires that the home country supervisor:

a. Is able to determine that the international trust entity and its offices and subsidiaries have adequate procedures for monitoring and controlling its domestic and foreign operations;

b. Is authorized to obtain information, by examination, audits or by other means, on the domestic and foreign operations of the international trust entity, including its offices and subsidiaries, and the authority to demand financial reports which permit analysis of the consolidated condition of the international trust entity;

c. Is able to obtain information on the dealings and relationships between the international trust entity and its offices and subsidiaries, wherever located; and

d. Is authorized by the home country's laws to ensure the safety and soundness of the international trust entity and its offices and subsidiaries.

3. Includes the ability and willingness of the home country supervisor to provide the office early notice of any weaknesses being experienced by the international trust entities, including its offices or subsidiaries wherever located.

4. Includes the ability of the home country supervisor to

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provide the office assurance of cooperation by both the international trust entity and the home country supervisor.

(6) The office shall process requests made for inclusion under the moratorium as follows:

(a) Upon receipt of any request, the office shall review the information contained therein, and request any additional information to complete the request to qualify for the moratorium within 30 days after receipt. The organization or entity shall provide the requested additional information within 45 days after the receipt of the notice from the office. If the office does not make such request within 30 days after receipt, the request to qualify for the moratorium is deemed complete as of the date it was received.

(b) Within 20 days after receipt of any additional information requested, the office shall deem the request to qualify for the moratorium complete or provide notification to the organization or entity that the information provided does not satisfy the office's request or requests.

(c) Within 90 days after receipt of a completed request to qualify for the moratorium, the office shall confirm with the organization or entity that they are or are not a party to the moratorium.

1. If the office determines that an organization or entity is not a party to the moratorium, the office shall issue a notice of denial informing the organization or entity of its determination. An organization or entity receiving a notice of denial may request a hearing under chapter 120 to contest the denial.

2. If the office fails to notify the organization or entity

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within such time whether or not the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium by operation of law.

(d) During the period of the moratorium, the office may conduct an onsite visitation of an organization or entity to confirm information provided to the office in deeming the organization or entity qualified for the moratorium. If the office finds that the organization or entity made a material false statement in its request to qualify for the moratorium, the office shall issue an immediate final order suspending the organization's or entity's qualification and disqualifying the organization or entity from participating in the moratorium. A material false statement made in the request to qualify for the moratorium constitutes an immediate and serious danger to the public health, safety, and welfare.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 276 - 291

and insert:

to apply the moratorium to specified persons of the organization or entity; providing for construction; specifying requirements for a letter to the office to request qualification as a party to the moratorium; requiring the office to confirm specified findings when processing a request; specifying circumstances for establishing adequate supervision; providing procedures and timeframes for the office's processing of requests and the office's requests for additional

information; providing timeframes for the office to confirm with the organization or entity whether it has been confirmed as a party to the moratorium; requiring the office to issue a notice of denial if it determines that an organization or entity is not a party to the moratorium; providing that a denied organization or entity may request a certain hearing to contest the denial; providing for construction if certain timeframes are not met; authorizing the office to conduct an onsite visitation of an organization or entity for a specified purpose until a specified time; requiring the office to issue an immediate final order disqualifying an organization or entity if it finds that such organization or entity made a material false statement in its request; providing for construction; providing for future repeal;

By Senator Flores

37-00945-16 20161106__

A bill to be entitled

An act relating to limited purpose international trust company representative offices; amending s. 663.01, F.S.; defining terms; amending ss. 655.966 and 662.111, F.S.; conforming cross-references; amending s. 663.02, F.S.; providing applicability of state banking laws to limited purpose international trust company representative offices; amending s. 663.03, F.S.; revising applicability of certain acts; creating s. 663.045, F.S.; exempting a limited purpose international trust company representative office from licensing requirements; requiring certain entities to be registered; specifying required information on an application for registration; requiring a sworn statement by a specified person affirming certain statements; specifying procedures for the Office of Financial Regulation to review an application; requiring the office to register an applicant if certain criteria are satisfied; specifying procedures for incomplete or deficient applications; specifying time limits for the office to approve or deny an application; specifying procedures for the office to deny an application; requiring an applicant to provide the office with a specified fidelity bond; specifying the duration of a registration; providing that the office is not responsible for examining certain entities regarding the safety and soundness of their operations; providing applicability; amending s. 120.80, F.S.; exempting applications for registration of limited purpose international trust company representative offices from certain provisions of ch. 120, F.S.; creating s. 663.046, F.S.; providing

37-00945-16 20161106__

procedures and a fee for registration renewals; providing applicability; amending s. 663.055, F.S.; specifying capital requirements for a limited purpose international trust company representative office; creating s. 663.057, F.S.; specifying certain requirements for a limited purpose international trust company representative office; creating s. 663.058, F.S.; requiring a limited purpose international trust company representative office to procure and maintain a specified fidelity bond to indemnify against certain loss; providing fidelity bond requirements for an applicant; providing certain requirements for a corporate surety; requiring a limited purpose international trust company representative office to procure and maintain specified liability insurance coverage to cover certain acts and omissions; amending s. 663.0625, F.S.; specifying permissible and prohibited activities by a limited purpose international trust company representative office and by certain employees; requiring a specified written disclosure; amending s. 663.09, F.S.; requiring a limited purpose international trust company representative office to file specified reports with the office; requiring a limited purpose international trust company representative office to notify the office, on a specified form and within a specified time, of certain events; authorizing the office to conduct an investigation of a limited purpose international trust company representative office;

creating s. 663.095, F.S.; providing grounds for which the office may revoke the registration of a limited purpose international trust company representative office; specifying procedures for the office to revoke a registration; authorizing the office to seek a court order to annul or dissolve a limited purpose international trust company under certain circumstances; creating s. 663.096, F.S.; authorizing the office to issue and serve a complaint for a cease and desist order based on certain violations; specifying procedures for the issuance of a cease and desist order and for contesting the office's action; specifying procedures for the issuance of an emergency cease and desist order; providing requirements for a limited purpose international trust company representative office to wind up its affairs after entry of an order; authorizing the office to seek a court order to annul or dissolve a limited purpose international trust company representative office under certain circumstances; creating s. 663.115, F.S.; providing requirements for a limited purpose international trust company representative office discontinuing its business; amending s. 663.12, F.S.; specifying fees for registration and conversion to or from a license; providing an effective date.

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

Section 1. Present subsections (1) through (9) of section

663.01, Florida Statutes, are redesignated as subsections (2) through (10), respectively, present subsections (10) and (11) of that section are redesignated as subsections (12) and (13), respectively, and new subsections (1) and (11) are added to that section, to read:

663.01 Definitions.—As used in this part, the term:

(1) "Affiliated international trust company" means an international trust company that is a member of the same business organization as a limited purpose international trust company representative office and that does not provide depository, investment management, or brokerage services in conjunction with its trust business. An affiliated international trust company is not an international banking corporation as defined in subsection (7).

(11) "Limited purpose international trust company representative office" means an office organized under the laws of this state and registered and maintained in this state for the purpose of engaging in nonfiduciary activities described in s. 663.0625(2), and which is not licensed as an international trust company representative office.

Section 2. Paragraph (a) of subsection (2) of section 655.966, Florida Statutes, is amended to read:

655.966 Automated teller machine; surcharge disclosure.—

(2)(a) Subject to the requirements of subsection (1), an agreement to operate or share an automated teller machine may not prohibit, limit, or restrict the right of the operator or owner of an automated teller machine, as defined in s. 655.960(3), to charge an access fee or surcharge, not otherwise prohibited under state or federal law, to a customer conducting

a transaction using an account from an international banking corporation as defined in s. 663.01(7) ~~s. 663.01(6)~~.

Section 3. Paragraph (e) of subsection (15) of section 662.111, Florida Statutes, is amended to read:

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

(15) "Foreign licensed family trust company" means a family trust company that:

(e) Is not owned by, or a subsidiary of, a corporation, limited liability company, or other business entity that is organized in or licensed by any foreign country as defined in s. 663.01(4) ~~s. 663.01(3)~~.

Section 4. Subsection (3) is added to section 663.02, Florida Statutes, to read:

663.02 Applicability of state banking laws.—

(3)(a) If a limited purpose international trust company representative office limits its activities to the activities authorized under s. 663.0625, other sections of the financial institutions codes do not apply to it except as otherwise expressly provided in this chapter.

(b) A limited purpose international trust company representative office is a financial institution solely for purposes of the applicability of s. 655.012, relating to general supervisory powers and rulemaking, and s. 655.057, relating to records and limitations on public access to records, except if it appears from the context that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state.

(c) This section does not limit the office's authority to investigate an entity to ensure that it does not violate this

chapter or applicable provisions of the financial institutions codes.

Section 5. Section 663.03, Florida Statutes, is amended to read:

663.03 Applicability of the Florida Business Corporation Act and the Florida Revised Limited Liability Company Act.—Notwithstanding ss. 605.0102(25) and (26) and 607.01401(12) ~~s. 607.01401(12)~~, the provisions of chapter 605 and of part I of chapter 607 not in conflict with the financial institutions codes which relate to foreign limited liability companies or foreign corporations apply to all international banking corporations and their offices doing business in this state and to limited purpose international trust company representative offices.

Section 6. Section 663.045, Florida Statutes, is created to read:

663.045 Registration of a limited purpose international trust company representative office; application for registration; approval or disapproval.—

(1) A limited purpose international trust company representative office is not required to obtain a license under this chapter. However, a limited purpose international trust company representative office is required to be registered with the office if it transacts limited purpose international trust company representative office business in this state or maintains in this state any office for carrying on such business. An affiliate, subsidiary, or other person or business entity acting as an agent for, on behalf of, or for the benefit of such limited purpose international trust company

representative office, which engages in such activities in this state or maintains in this state any office for carrying on such business, is also required to be registered with the office.

(2) A person required to be registered under subsection (1) shall register with the office on forms prescribed by the office and provide the following information in English:

(a) The name of the proposed limited purpose international trust company representative office, which need not be in English.

(b) A copy of the articles of incorporation or articles of organization and the bylaws or operating agreement of the proposed limited purpose international trust company representative office.

(c) The physical address and mailing address of the proposed limited purpose international trust company representative office, which must be located in this state.

(d) A statement describing in detail the activities of the proposed limited purpose international trust company representative office.

(e) The name and biographical information of each individual who will initially serve as a director, an officer, a manager, or a member acting in a managerial capacity of the proposed limited purpose international trust company representative office.

(f) The name of the business organization to which the limited purpose international trust company representative office belongs, together with such biographical information as the commission or office may reasonably require by rule for each person who, together with related interests as defined in s.

655.005(1), owns or controls, directly or indirectly, 25 percent or more of the voting stock or nonvoting stock that is convertible into voting stock of the proposed limited purpose international trust company representative office.

(g) The regulatory authorities that any affiliated international trust company is subject to and proof of good standing with such regulatory authorities. Such proof must be translated into English if written in another language.

(h) The amount of the initial capital account of the proposed limited purpose international trust company representative office and the form in which the capital was paid and will be maintained, as stated in a review conducted by an independent certified public accountant licensed in this state.

(i) The type and amount of bonds or insurance that will be procured and maintained by the proposed limited purpose international trust company representative office pursuant to s. 663.058.

(j) A sworn statement signed by an executive officer of the applicant affirming that the following statements are true:

1. The proposed limited purpose international trust company representative office is not providing depository, investment management, or fiduciary services and is providing only the permissible activities as authorized in s. 663.0625(2).

2. No director, officer, manager, or member of the proposed limited purpose international trust company representative office or of any affiliated international trust company served as a director, an officer, a manager, or a member acting in a managerial capacity for an international trust company representative office, an affiliated international trust

company, or a financial institution that was licensed under the financial institutions codes, or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country, had that license suspended or revoked within 10 years preceding the date of the application.

3. No director, officer, or manager of, or member acting in a managerial capacity for, the proposed limited purpose international trust company representative office or an affiliated international trust company has been convicted of, or pled guilty or nolo contendere to, regardless of whether adjudication of guilt was entered by the court, or has been the subject of a civil penalty imposed for, a violation of the financial institutions codes, including s. 655.50, chapter 896, or similar state or federal law or related rule, or a crime involving fraud, misrepresentation, or moral turpitude.

4. No director, officer, or manager of, or member acting in a managerial capacity for, the proposed limited purpose international trust company representative office or affiliated international trust company has had a professional license suspended or revoked within the 10 years preceding the date of the application.

5. All information contained in the application is true and correct to the best knowledge of the executive officer signing the sworn statement on behalf of the proposed limited purpose international trust company representative office.

(k) Any other information that is consistent with this section, as required by commission rule.

(3) Upon the filing of the registration application by the

limited purpose international trust company representative office, the office shall conduct an investigation to confirm:

(a) That the persons who will serve as directors or officers of the corporation or, if the applicant is a limited liability company, managers or members acting in a managerial capacity, have not:

1. Been convicted of, or entered a plea of nolo contendere to, a crime involving fraud, misrepresentation, or moral turpitude;

2. Been convicted of, entered a plea of nolo contendere to, or been the subject of a civil penalty imposed for, a violation of the financial institutions codes, including s. 655.50, chapter 896, or similar state or federal law;

3. Been directors, officers, managers, or members of a trust company or financial institution licensed or chartered under the financial institutions codes or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country and whose license or charter was suspended or revoked within the 10 years preceding the date of the application;

4. Had a professional license suspended or revoked within the 10 years preceding the date of the application; or

5. Made a false statement of material fact on the application.

(b) That capital accounts of the proposed limited purpose international trust company conforming to s. 663.055(5) will be established and that fidelity bonds and general liability insurance coverage required under s. 663.058 will be issued and effective as of the date the limited purpose international trust

company representative office commences operations.

(c) That each affiliated international trust company with which it intends to engage in the activities authorized under s. 663.0625 is in good standing with the relevant regulatory body that supervises the activity of such international trust company.

(d) That the jurisdiction in which each affiliated international trust company is organized and chartered is not currently listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counter-terrorist financing.

(4) If the investigation required under this section confirms that the applicant has met the requirements of ss. 663.055(5), 663.057, and 663.058, and that the criteria in subsection (3) have been satisfied, the office shall register the applicant to operate as a limited purpose international trust company representative office.

(5) If the registration application is incomplete or the office is unable to verify the information provided with the application, the office shall notify the applicant in writing, and the applicant shall have 30 days after receipt of such notification to provide the required information. The office shall deny the application if the applicant fails to timely provide such information.

(6)(a) Notwithstanding chapter 120, an application may be returned to the applicant on a one-time basis for correction of substantial deficiencies and may be resubmitted without payment of an additional fee if the applicant resubmits the application within 60 days after the date the office returns the

application.

(b) With respect to affiliated international trust companies, if some but not all of the criteria in paragraphs (3)(c) and (d) are met, the applicant may resubmit the application without the affiliated international trust companies that do not meet the criteria, and the office shall permit registration conditioned on the limited purpose international trust company representative office not conducting activities authorized in this state under s. 663.0625 with respect to any such affiliated international trust companies that are removed from the application.

(7) Notwithstanding s. 120.60(1), an application for registration of a limited purpose international trust company representative office must be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. An application for registration not approved or denied within the 180-day period shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to registration and approval of insurance coverage by the appropriate insurer.

(8) If the office determines the criteria in subsection (3) have not been met, the office must provide the applicant with a notice of its intent to deny registration and of the applicant's right to request a hearing pursuant to ss. 120.569 and 120.57.

(9) Before the office may grant approval of a registration, the applicant must provide to the office a fidelity bond that meets the requirements of s. 663.058.

(10) A registration under this chapter shall be valid for 1

year after its effective date.

(11) The office is not responsible for examining a limited purpose international trust company representative office or an affiliated international trust company regarding the safety and soundness of its operations.

(12) A company in operation as of October 1, 2016, which meets the definition of a limited purpose international trust company representative office and is not otherwise licensed under this chapter must apply for registration as a limited purpose international trust company representative office on or before December 30, 2016, or cease doing business in this state.

Section 7. Subsection (3) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license or registration or approval of a merger pursuant to title XXXVIII:

1.a. The Office of Financial Regulation of the Financial Services Commission shall have published in the Florida Administrative Register notice of the application within 21 days after receipt.

b. Within 21 days after publication of notice, any person may request a hearing. Failure to request a hearing within 21 days after notice constitutes a waiver of any right to a hearing. The Office of Financial Regulation or an applicant may request a hearing at any time before ~~prior to~~ the issuance of a final order. Hearings shall be conducted pursuant to ss. 120.569 and 120.57, except that the Financial Services Commission shall

by rule provide for participation by the general public.

2. Should a hearing be requested as provided by sub-subparagraph 1.b., the applicant, ~~or~~ licensee, or registrant shall publish at its own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Financial Services Commission may by rule specify the format and size of the notice.

3. Notwithstanding s. 120.60(1), and except as provided in subparagraph 4., an application for license or registration for a new bank, new trust company, new credit union, new savings and loan association, ~~or~~ new licensed family trust company, or new limited purpose international trust company representative office must be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. An application for such a license or registration or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is later, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license or registration and approval of insurance of accounts for a new bank, a new savings and loan association, a new credit union, ~~or~~ a new licensed family trust company by the appropriate insurer, or a new limited purpose international trust company representative office.

4. In the case of an application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent

or more of any class of voting securities, and in the case of an application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Office of Financial Regulation shall request that a public hearing be conducted pursuant to ss. 120.569 and 120.57. Notice of such hearing shall be published by the applicant as provided in subparagraph 2. The failure of such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding s. 120.60(1) and subparagraph 3., every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

(b) In any application for a license, registration, or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing, the administrative law judge shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

Section 8. Section 663.046, Florida Statutes, is created to read:

663.046 Renewal of registration of a limited purpose international trust company representative office.—

(1) Within 45 days before the expiration of the registration, a limited purpose international trust company representative office shall file its annual renewal application

with the office on a form prescribed by the commission. The renewal application must include a sworn declaration by an executive officer of the limited purpose international trust company representative office which:

(a) Attests that the limited purpose international trust company representative office has operated in full compliance with this chapter, chapter 896, or similar state or federal law, or any related rule or regulation, and with all federal laws and regulations that apply to any client of the affiliated international trust company for whom it has conducted activities authorized under s. 663.0625(2).

(b) Describes any material changes to the information provided under s. 663.045 regarding its operations, principal place of business, directors, officers, managers, or members acting in a managerial capacity or any affiliated international trust company since the date of registration.

(c) Demonstrates that the minimum requirements for capital and insurance have been met, as stated in a review prepared by an independent certified public accountant licensed in this state.

(2) A fee of $1,500 must be submitted with the annual renewal application for registration of a limited purpose international trust company representative office. All fees received by the office pursuant to this section shall be deposited into the Financial Institutions' Regulatory Trust Fund pursuant to s. 655.049 for the purpose of administering the provisions of this chapter with respect to registration of limited purpose international trust company representative offices.

(3) The provisions of s. 663.045 relating to conduct of the investigation and issuance or denial of registration apply to a registration renewal under this section.

Section 9. Subsection (4) of section 663.055, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

663.055 Capital requirements.—

(4) For the purpose of this part, the capital accounts of an international banking corporation and a limited purpose international trust company representative office shall be determined in accordance with rules adopted by the commission. In adopting such rules, the commission shall consider similar rules adopted by bank regulatory agencies in the United States and the need to provide reasonably consistent regulatory requirements for international banking corporations which will maintain the safe and sound condition of international banking corporations doing business in this state.

(5) A limited purpose international trust company representative office may not be organized or operated with a capital account containing less than $100,000. Such capital shall be in the form of cash or cash equivalents.

Section 10. Section 663.057, Florida Statutes, is created to read:

663.057 Requirements for a limited purpose international trust company representative office.—A limited purpose international trust company representative office shall maintain:

(1) A principal office physically located in this state where original or true copies of all records and accounts of the

limited purpose international trust company representative office may be accessed and made readily available for examination by the office in accordance with this chapter. A limited purpose international trust company representative office may also maintain one or more branch offices within this state and shall notify the office in writing at least 30 days before the establishment of such branch offices.

(2) A registered agent who has an office in this state at the street address of the registered agent.

(3) All applicable state and local business licenses, charters, and permits.

(4) A deposit account with a state-chartered or national financial institution that has a principal or branch office in this state.

(5) At least one director or manager who is a resident in this state.

Section 11. Section 663.058, Florida Statutes, is created to read:

663.058 Fidelity bonds; insurance.—

(1) A limited purpose international trust company representative office shall procure and maintain a fidelity bond on all active officers, directors, managers, members acting in a managerial capacity, and employees of the company, regardless of whether they receive a salary or other compensation from the company, in order to indemnify the company against loss because of a dishonest, fraudulent, or criminal act or an omission on the part of any such persons, whether acting alone or in combination with other persons.

(2) The fidelity bond required by this section:

(a) Must be issued by an insurer authorized to do business in this state.

(b) May not be less than $500,000.

(c) Must be in a form satisfactory to the office and shall run to the state for the benefit of any claimants in this state against the applicant to secure the faithful performance of the obligations of the applicant regarding the receipt, handling, and transmission of information and documents provided to the applicant. The aggregate liability of the fidelity bond may not exceed the principal sum of the bond. Claimants against the applicant may bring suit directly on the fidelity bond, or the Department of Legal Affairs may bring suit on behalf of the claimants.

(d) May not be cancelled by the applicant or the corporate surety except upon written notice to the office by registered mail. A cancellation may not take effect until 30 days after receipt by the office of the written notice.

(3) The corporate surety must, within 10 days after it pays a claim, give written notice to the office by registered mail of the payment with details sufficient to identify the claimant and the claim or judgment paid.

(4) If the principal sum of the bond is reduced by one or more recoveries or payments, the applicant must furnish a new or additional bond so that the total or aggregate principal sum of the bond equals the sum required in paragraph (2)(b). Alternatively, an applicant may furnish an endorsement executed by the corporate surety reinstating the bond to the required principal sum.

(5) The limited purpose international trust company

representative office shall also procure and maintain general liability insurance coverage under a corporate or group policy with a minimum of $1 million per occurrence and a policy period aggregate limit of $3 million in which it is listed as an insured, to cover the acts and omissions of officers, directors, managers, members acting in a managerial capacity, and employees, regardless of whether the person receives a salary or other compensation from the company.

Section 12. Section 663.0625, Florida Statutes, is amended to read:

663.0625 International trust company representative offices and limited purpose international trust company representative offices; permissible activities~~; requirements~~.—

(1) An international trust company representative office may not act as a fiduciary, but may conduct any nonfiduciary activities that are ancillary to the fiduciary business of its international banking corporation or trust company, which ~~but may not act as a fiduciary. Permissible activities~~ include:

(a) Advertising, marketing, and soliciting for fiduciary business on behalf of an international banking corporation or trust company;

(b) Contacting existing or potential customers, answering questions, and providing information about matters related to their accounts;

(c) Serving as a liaison in this state between the international banking corporation or trust company and its existing or potential customers; and

(d) Engaging in any other activities approved by the office or under rules of the commission.

(2) A limited purpose international trust company representative office that registers pursuant to s. 663.045 may conduct any of the following activities:

(a) Participate in or attend conferences, seminars, or events that are intended for industry or professional participants and are not advertised to the general public, for the purposes of marketing the services of an affiliated international trust company.

(b) Market the services of an affiliated international trust company to lawyers, accountants, banks, licensed financial advisors, and other wealth planning professionals who are licensed by a state, federal, or territorial government or certified by a recognized professional accrediting entity.

(c) In connection with the authorized activities described in paragraphs (a) and (b), engage in name-recognition or branding activities in the form of signage or promotional materials that use the name of the affiliated international trust company or the name of the business organization of which the affiliated international trust company is a member.

(d) Assist clients or referred prospective clients of the affiliated international trust company in communicating with the affiliated international trust company, completing documentation relating to the trust relationship, and obtaining information about matters related to trusts with which they are or may become associated. However, a limited purpose international trust company representative office under this subsection may not have authority to accept such clients on behalf of the affiliated international trust company and may not otherwise bind the affiliated international trust company.

(e) Exercise the powers of a corporation under chapter 607 or a limited liability company under chapter 605 which are reasonably necessary to enable it to fully exercise a power enumerated in this section or authorized by this chapter.

(f) Engage in any other activities consistent with this section, as prescribed by commission rule.

(3)(a) ~~Representatives and~~ Employees, officers, or directors at an international trust company representative office or a limited purpose international trust company representative ~~such~~ office may not act as a fiduciary, accept ~~including, but not limited to, accepting~~ the fiduciary appointment, execute ~~executing~~ the fiduciary documents that create the fiduciary relationship, or make ~~making~~ discretionary decisions regarding the investment or distribution of fiduciary accounts.

(b) A limited purpose international trust company representative office may not accept custody of any property of the client of the affiliated international trust company on behalf of the affiliated international trust company and may not deliver such property to the affiliated international trust company.

(c) A limited purpose international trust company representative office may not solicit business from the general public on behalf of its affiliated international trust company in this state or advertise its services to the general public in this state. This paragraph does not limit a limited purpose international trust company representative office's authorized activities under subsection (2).

(d) A limited purpose international trust company

representative office may not use the words "bank," "trust," or the name of an affiliated international trust company as part of its company or fictitious name.

(e) A limited purpose international trust company representative office may not market to or discuss the services of an affiliated international trust company with any person who has not previously been referred to it by a professional described in paragraph (2)(b) or who is an existing client of an affiliated international trust company.

(4) A limited purpose international trust company representative office shall provide the following written disclosure to a prospective or existing client of its affiliated international trust company: "...(The name of the limited purpose international trust company representative office)... and any affiliated international trust companies are not licensed or authorized to conduct the trust or fiduciary business in Florida." The commission may establish by rule criteria for the size and font of the required disclosure.

Section 13. Section 663.09, Florida Statutes, is amended to read:

663.09 Reports; records; significant events; investigations.—

(1) An international banking corporation doing business in this state shall, at such times and in such form as the commission prescribes, make written reports in the English language to the office, under the oath of one of its officers, managers, or agents transacting business in this state, showing the amount of its assets and liabilities and containing such other matters as the commission or office requires. An

international banking corporation that maintains two or more offices may consolidate such information in one report unless the office otherwise requires for purposes of its supervision of the condition and operations of each such office. The late filing of such reports is subject to an administrative fine as prescribed under s. 655.045(2). If such international banking corporation fails to make such report, as directed by the office, or if such report contains a false statement knowingly made, the same shall be grounds for revocation of the license of the international banking corporation.

(2) The international banking corporation of each state-licensed international bank agency or international branch shall perform or cause to be performed an audit of such international bank agency or international branch. The commission shall, by rule, prescribe the minimum audit procedures including the audit reporting requirements which would satisfy the provisions of this subsection.

(3) Each international banking corporation which operates an office licensed under this part shall cause to be kept, at a location accepted by the office:

(a) Correct and complete books and records of account of the business operations transacted by such office. All policies and procedures governing the operations of such office, as well as any existing general ledger or subsidiary accounts, shall be maintained in the English language. The office may require that any other document not written in the English language which the office deems necessary for the purposes of its regulatory and supervisory functions be translated into English at the expense of the international banking corporation.

(b) Current copies of the charter and bylaws of the international banking corporation, relative to the operations of the office, and minutes of the proceedings of its directors, officers, or committees relative to the business of the office. Such records shall be kept pursuant to s. 655.91 and shall be made available to the office, upon request, at any time during regular business hours of the office. Any failure to keep such records as aforesaid or any refusal to produce such records upon request by the office shall be grounds for suspension or revocation of any license issued under this part.

(4) In addition to any other reports it may be required to make, an international banking corporation which maintains an international bank agency or international branch in this state shall make reports to the office in such form and at such times as the commission prescribes by rule concerning the management, asset quality, capital adequacy, and liquidity of the international banking corporation.

(5) A limited purpose international trust company representative office shall file reports with the office as the commission or the commission may prescribe by rule. The rules may prescribe such reports to be subject to examination by the office as a condition of granting or maintaining the registration.

(6) A limited purpose international trust company representative office shall notify the office within 30 days of learning of the occurrence of any of the following significant events by filing with the office a form disclosing:

(a) Any civil, criminal, or administrative investigation or proceeding initiated by a regulatory or law enforcement

authority against the limited purpose international trust company representative office;

(b) The addition, resignation, or termination of a director or manager, an executive officer, or a member acting in a managerial capacity;

(c) Any change in outside accountants who are used to verify capital accounts;

(d) Any interruption of fidelity bonding or insurance coverage;

(e) Any suspected criminal act perpetrated against the limited purpose international trust company representative office. However, no liability shall be incurred as a result of making a good faith effort to fulfill the disclosure requirement in this paragraph;

(f) The loss of the charter of any affiliated international trust company;

(g) The loss of good standing with the applicable regulatory authorities by any affiliated international trust company;

(h) A change in the company name or fictitious name of the limited purpose international trust company; or

(i) A change with respect to any of the statements certified under s. 663.045.

(7) The disclosure form shall be specified by commission rule. An executive officer of the limited purpose international trust company representative office must swear that the form is authentic and accurate.

(8) The office may conduct an investigation of a limited purpose international trust company representative office at any

time it deems necessary to determine whether a limited purpose international trust company representative office has engaged in any act prohibited under s. 663.0625.

Section 14. Section 663.095, Florida Statutes, is created to read:

663.095 Revocation of registration of a limited purpose international trust company representative office.—

(1) Any of the following constitutes grounds for the office to revoke the registration of a limited purpose international trust company representative office:

(a) The company is not a limited purpose international trust company representative office as defined in this chapter;

(b) A violation of s. 663.055(5), s. 663.057, s. 663.058, or s. 663.0625;

(c) A violation of chapter 896, relating to financial transactions offenses, or any similar state or federal law or any related rule or regulation;

(d) A violation of any commission rule which continues 30 days after written notice from the office;

(e) A violation of any order of the office which continues 30 days after written notice from the office;

(f) A breach of any written agreement with the office;

(g) A prohibited act or practice under s. 663.0625;

(h) A failure to file annual reports or provide information or documents to the office upon written request; or

(i) Conviction of a felony or entry of a plea of guilty or nolo contendere, regardless of adjudication of guilt, by the limited purpose international trust company representative office, or its officers, directors, managers, or persons acting

in a managerial capacity, or an affiliated international trust company in a state or federal court, or in the courts of a foreign country with which the United States maintains diplomatic relations which involves a violation of law relating to fraud, currency transaction reporting, money laundering, theft, or moral turpitude and the charge is equivalent to a felony charge under state or federal law.

(2)(a) Upon a finding of the occurrence of any of the acts set forth in paragraphs (1)(a)-(h), the office may enter an order suspending the company's registration and provide notice of its intention to revoke the registration and of the right to a hearing pursuant to ss. 120.569 and 120.57.

(b) If there has been a violation or failure to disclose a violation under paragraph (1)(i), the office may immediately enter an order revoking the registration.

(c) The limited purpose international trust company representative office shall have 90 days to wind up its affairs after its registration has been revoked. During such time, it may not engage in any of the activities authorized under s. 663.0625, except to the extent required to provide notice that it is winding down its affairs in this state and the name or names and contact information of the persons who may be contacted for additional information.

(d) If after 90 days the company has not provided satisfactory proof to the office that it is no longer in operation, the office may seek an order from the circuit court for the annulment or dissolution of the company. Satisfactory proof shall consist of a corporate resolution authorizing dissolution, a certified copy of articles of dissolution filed

with the Division of Corporations of the Department of State, or documentation confirming the closing of the limited purpose international trust company representative office.

Section 15. Section 663.096, Florida Statutes, is created to read:

663.096 Cease and desist authority.—

(1) The office may issue and serve a complaint upon a limited purpose international trust company representative office or any individual if the office has reason to believe that the limited purpose international trust company representative office or individual named therein is engaging in or has engaged in conduct that:

(a) Indicates the company is not a limited purpose international trust company representative office as defined in this chapter;

(b) Is a violation of s. 663.055(5), s. 663.057, s. 663.058, or s. 663.0625;

(c) Is a violation of any commission rule which continues 30 days after written notice from the office;

(d) Is a violation of any order of the office which continues 30 days after written notice from the office;

(e) Is a breach of any written agreement with the office;

(f) Is a prohibited act or practice pursuant to s. 663.0625;

(g) Is a failure to provide information or documents to the office upon written request within 30 days after such request or such longer time as specified in the request; or

(h) Is a violation of chapter 896 or similar state or federal law or any related rule or regulation.

(2) The complaint must contain the statement of facts and a notice of right to a hearing pursuant to ss. 120.569 and 120.57.

(3) If no hearing is requested within the time allowed by ss. 120.569 and 120.57, or if a hearing is held and the office finds that any of the charges are true, the office may enter an order directing the limited purpose international trust company representative office or the individual named therein to cease and desist from engaging in the conduct complained of and to take corrective action.

(4) If the limited purpose international trust company representative office or the individual named in such order fails to respond to the complaint within the time allotted in ss. 120.569 and 120.57, such failure constitutes a default and justifies the entry of a cease and desist order.

(5) A contested or default cease and desist order is effective when reduced to writing and served upon the licensed limited purpose international trust company representative office or the individual named therein. An uncontested cease and desist order is effective as agreed.

(6) If the office finds that conduct described in subsection (1) has occurred which presents an imminent danger to the public, it may issue an emergency cease and desist order requiring the limited purpose international trust company representative office or individual named therein to immediately cease and desist from engaging in the conduct complained of and to take corrective action. The emergency order is effective immediately upon service of a copy of the order upon the limited purpose international trust company representative office or individual named therein and remains effective for 90 days. If

the office begins nonemergency cease and desist proceedings under subsection (1), the emergency order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

(7) Subject to its rights under chapter 120, a limited purpose international trust company representative office shall have 90 days to wind up its affairs after entry of an order to cease and desist from operating as a limited purpose international trust company representative office. During such time, it may not engage in any of the activities authorized under s. 663.0625, except to the extent required to provide notice that it is winding down its affairs in this state and the name or names and contact information of the persons who may be contacted for additional information. If, after 90 days, a limited purpose international trust company representative office has not provided proof satisfactory to the office that it has terminated operations, the office may seek an order from the circuit court for the annulment or dissolution of the company. Satisfactory proof shall consist of a corporate resolution authorizing dissolution, a certified copy of articles of dissolution filed with the Division of Corporations of the Department of State, or documentation confirming the closing of the limited purpose international trust company representative office.

Section 16. Section 663.115, Florida Statutes, is created to read:

663.115 Discontinuing business.—If a limited purpose international trust company representative office desires to discontinue business, it must file with the office a certified

copy of the resolution of the board of directors, or members or managers of a limited liability company, authorizing that action. The limited purpose international trust company representative office shall voluntarily terminate its registration as a limited purpose international trust company representative office, whereupon it shall be released from any fidelity bonds that it maintained pursuant to s. 663.058.

Section 17. Subsection (1) of section 663.12, Florida Statutes, is amended to read:

663.12 Fees; assessments; fines.—

(1) Each application for a license or registration under ~~the provisions of~~ this part shall be accompanied by a nonrefundable filing fee payable to the office in the following amount:

(a) Ten thousand dollars for establishing a state-chartered investment company.

(b) Ten thousand dollars for establishing an international bank agency or branch.

(c) Five thousand dollars for establishing an international administrative office.

(d) Five thousand dollars for establishing an international representative office.

(e) Five thousand dollars for establishing an international trust company representative office or a limited purpose international trust company representative office.

(f) An amount equal to the initial filing fee for an application to convert from one type of license to another or from a registration to a license. The commission may increase the filing fee for any type of license or registration to an

amount established by rule and calculated in a manner so as to cover the direct and indirect cost of processing such applications.

Section 18. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

1106
Bill Number (if applicable)

Topic International Trust Co. Rep. Offices

Amendment Barcode (if applicable)

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Speaking: [X] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida International Administrators Assoc.

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/2016
Meeting Date

1106
Bill Number (if applicable)

Topic LIMITED PURPOSE INTERNATIONAL TRUST Co. AS AMENDED
Amendment Barcode (if applicable)

Name SLATER BATLISS

Job Title

Address 215 S. MONROE ST
Street

Phone 850 222 0900

TALLAHASSEE FL 32301
City *State* *Zip*

Email swb@cardonsjamm.com

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing THE FLORIDA INTERNATIONAL ADMINISTRATORS ASSOC.

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate

SENATE APPROPRIATIONS
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16 JAN 28 AM 10: 16
SENT TO: CHAIRMAN
STAFF DIR. STAFF

Committee Agenda Request

To: Senator Alan Hays, Chair
Appropriations Subcommittee on General Government

Subject: Committee Agenda Request

Date: January 27, 2016

I respectfully request that **1106**, relating to Limited Purpose International Trust Company Representative Offices, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	CS/SB 1152
INTRODUCER:	Community Affairs Committee and Senator Diaz de la Portilla
SUBJECT:	Classified Advertisement Websites
DATE:	February 23, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Fav/CS**
2.	Davis	DeLoach	AGG	**Recommend: Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1152 authorizes local governments on a voluntary basis to designate safe-haven facilities for sales transactions for items or services advertised on classified advertisement websites.

There is no fiscal impact on state funds.

The bill takes effect July 1, 2016.

II. Present Situation:

Online Transaction Safe-Haven Laws

In response to a continuing trend of crimes stemming from transactions related to online classified advertisement websites, such as Craigslist, a number of police departments have opened their lobbies and parking lots to citizens to complete the sales transactions. Conducting transactions in police lobbies or parking lots deters crime for obvious reasons, including the proximity of police officers and the likelihood of surveillance by security cameras.

In May 2014, after a series of robberies related to Craigslist transactions, the East Chicago Police Department began "Operation Safe Sale," and offered the use of its headquarters parking lot and

lobby to conduct transactions.[1] The police department even offered supervision during certain hours.[2] If supervision is not requested, the parking lot and police lobby are available for use for transactions any time.[3]

In January 2015, the Virginia Beach, Virginia, Police Department launched the "Find a Safe Place" initiative, in which it offered the use of the police department's lobby for transactions arranged through classified advertisement websites.[4] Police lobbies are available for use daily during certain times.[5] However, the police department prohibited transactions involving "large, cumbersome household items, appliances and landscape care equipment," or "the sale of any contraband, stolen property, or other illegal items."[6]

In February 2015, the Toledo, Ohio, Police Department announced it would be making designated parking spots in front of one of its stations available for anyone to complete an online sales transaction.[7]

Florida police departments have also created safe havens at their facilities. In July 2014, the Boca Raton Police Department, in response to "at least three cases in June where people were ripped off by buyers when trying to sell something off Craigslist," offered the police department's lobby and parking lot for transactions.[8] Several other police departments across the state are also implementing safe havens, including Port Orange, Flagler, and Pinecrest.[9] Miami-Dade has designated 11 safe haven locations, of which eight are open 24 hours, seven days a week.[10]

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[1] Juan Perez Jr., *East Chicago Police Offer Up Their Lobby, Parking Lot for Craigslist Transactions*, CHICAGO TRIBUNE, (May 01, 2014) *available at* http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501_1_craigslist-transactions-becker-lobby (last visited February 10, 2016).
[2] *Id.*
[3] *Id.*
[4] Becca Mitchell and Todd Corillo, *Virginia Beach Police Offering Precinct Lobbies as a Safe Place for Craigslist Transactions*, WTKR NEWS CHANNEL 3, (January 27, 2015) *available at* http://wtkr.com/2015/01/27/virginia-beach-police-offering-precinct-lobby-as-a-safe-place-for-craigslist-transactions/ (last visited February 10, 2016).
[5] *Id.*
[6] *Id.*
[7] Angi Gonzalez, *Toledo Police to Offer Safe Haven to Craigslist Users*, WNWO NBC 24, (February 24, 2015), *available at* http://www.nbc24.com/news/story.aspx?id=1168859#.VQCK-_nF91A (last visited February 10, 2016).
[8] Kate Jacobsen, *Boca Raton Police Ask Craigslist Sellers to Use Station Lobby*, THE SUN-SENTINEL, (July 5, 2014), *available at* http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701_1_boca-raton-police-station-lobby-craigslist-sellers (last visited February 10, 2016).
[9] Matt Bruce, *Flagler Beach Police Station Doubles as Safe Haven for Online Deals*, The Daytona Beach News Journal, (May 13, 2015), *available at* http://www.news-journalonline.com/article/20150513/NEWS/150519775?p=1&tc=pg (last visited February 10, 2016); Lyda Longa, *Port Orange Police Sets up Safe Spot for Craigslist Transactions*, The Daytona Beach News Journal, (August 25, 2015), *available at* http://www.news-journalonline.com/article/20150825/NEWS/150829664 (last visited February 10, 2016); CBS Miami, *Pinecrest Police Now a Safe Haven for Craigslist Transactions*, (October 15, 2015), *available at* http://miami.cbslocal.com/2015/10/15/pinecrest-police-now-a-safe-haven-for-craigslist-transactions/ (last visited February 10, 2016).
[10] Miami-Dade Police Department, *Using the Internet to Buy or Sell Items?*, http://www.miamidade.gov/police/safe-haven-for-exchanges.asp (last visited February 10, 2016).

III. Effect of Proposed Changes:

This bill encourages local governments to establish safe-haven facilities to conduct sales transactions related to classified advertisement websites. Safe-haven facilities are those public local government buildings designated by a local government as places where persons can effect sales transactions safely.

Local governmental bodies may designate at least:

- One safe-haven facility in each county having a population of less than 250,000 residents.
- Two safe-haven facilities in each county having a population from 250,000 to less than 800,000 residents.
- Four safe-haven facilities in each county having a population of 800,000 or more residents.

Based on the 2010 census, six counties would require four safe-haven facilities, 15 counties would require two safe-haven facilities, and 46 counties would require one safe-haven facility.[11] The suggested options for local safe-haven facilities include sheriff's offices and county courthouses. Local governmental entities are not responsible for supervising, intervening in, or facilitating a sales transaction at a safe-haven facility.

This bill specifies that an action may not be initiated on a claim against the state or local government or any of its agencies or subdivisions based on an incident that occurs during a sales transaction at a safe-haven facility involving an individual who is not an officer, employee, or agent of the state or local government or of its agencies or subdivisions.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Sovereign immunity originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity

[11] Department of Management Services, *Senate Bill 1152 Analysis* (February 11, 2016) (on file with the Senate Committee on Community Affairs).

bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents unless the public entity expressly waives immunity.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and authorizes the Legislature to provide a waiver of immunity. Section 768.28(1), F.S., provides a broad waiver of sovereign immunity. But by law, liability to pay a claim or judgment is limited to $200,000 per plaintiff or $300,000 per incident.[12]

This bill appears to provide absolute immunity, but only to the extent that an injury or damages arise out of a sales transaction at a designated safe-haven involving an individual who is not an officer, employee, or agent of the state or local government or of its agencies or subdivisions. Accordingly, this bill creates an exception to the broad waiver of sovereign immunity under s. 768.28, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1152 may encourage more private buyers and sellers to engage in sales transactions through websites if a safe location exists for the actual exchange of goods for money.

C. Government Sector Impact:

Local governments could incur a fiscal impact relating to the voluntary designation and operation of safe-haven facilities for sales transactions from classified advertising websites. This fiscal impact is indeterminate.

There is no fiscal impact to state funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 501.180 of the Florida Statutes.

[12] Section 768.28(5), F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 16, 2016:
Removes DMS from the bill, and authorizes local governmental bodies to designate safe-haven facilities.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Diaz de la Portilla

578-03639-16 20161152c1

A bill to be entitled

An act relating to classified advertisement websites; creating s. 501.180, F.S.; defining the term "safe-haven facility"; authorizing local governmental bodies to designate a specified number of safe-haven facilities in each county based upon population size; authorizing a local governmental body to approve the use of local government buildings to serve as safe-haven facilities; limiting the liability of any local governmental entity that provides a safe-haven facility; limiting actions against the state or local government related to transactions taking place at a safe-haven facility; providing an effective date.

WHEREAS, there have been a number of cases throughout this state in which people selling cellphones, computers, or other valuable goods through classified advertisement websites have been targeted by criminals who intended to rob them when they met to exchange goods for cash, and

WHEREAS, even when the victims of these crimes select public and populated locations for the transactions that they feel are safe, such as shopping centers or parks, they still fall prey to these criminals, and

WHEREAS, identifying locations to serve as safe havens for transactions related to classified advertisement websites will deter these crimes and provide greater safety throughout the state, NOW, THEREFORE,

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

Section 1. Section 501.180, Florida Statutes, is created to read:

578-03639-16 20161152c1

501.180 Safe-haven facilities.—

(1) As used in this section, the term "safe-haven facility" means a public local government building approved by the local governmental body to be used by the public for the purpose of conducting a sales transaction involving an item or a service that was offered for sale on a classified advertisement website.

(2) Local governmental bodies may designate at least:

(a) One safe-haven facility in each county with a population of less than 250,000 residents.

(b) Two safe-haven facilities in each county with at least 250,000 but less than 800,000 residents.

(c) Four safe-haven facilities in each county with 800,000 or more residents.

(3) A safe-haven facility must be easily accessible so that an individual is not discouraged from using the location. A local governmental body may approve the use of a public local government building, such as a sheriff's office or a county courthouse, to serve as a safe-haven facility.

(4) A local governmental entity, or its officers, employees, or agents, that provides a safe-haven facility is not responsible for overseeing the sales transaction and is not otherwise liable for the actions of the parties involved in the transaction or nonparties present at the transaction.

(5) An action may not be initiated on a claim against the state or local government or any of its agencies or subdivisions based on an incident that occurs during a sales transaction at a safe-haven facility involving an individual who is not an officer, employee, or agent of the state or local government or of its agencies or subdivisions.

Section 2. This act shall take effect July 1, 2016.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

1152
Bill Number (if applicable)

Topic Classified Ad Websites

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title

Address
Street

Phone

City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1152

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title _____

Address 111 NW 1st St 2610 *Street*

Phone 305-979-7110

MIAMI 33128 *City* *State* *Zip*

Email JMM2@MIAMIDADE.GOV

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/CS/SB 1192 (939166)
INTRODUCER:	Appropriations Subcommittee on General Government; Environmental Preservation and Conservation Committee; and Senator Hays
SUBJECT:	Waste Management
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 1192:

- Precludes a local government from preventing a private company from listing separately on the company's invoice for solid waste collection, disposal, or recycling any governmental taxes or fees;
- Amends provisions regulating local government competition with solid waste collection companies to include disposal and recycling;
- Amends the definitions of "private company," "in competition," and "in direct competition" to include disposal and recycling services when used in relation to provisions regulating local government competition with solid waste collection, disposal, and recycling companies;
- Creates the crime of theft of recyclable property:
  - Defines "recyclable property";
  - Defines "theft" as it relates to recyclable property;
  - Provides for punishment of theft of recyclable property;
  - Provides for civil penalties for violations, provides a standard of proof, and provides for minimum damages.

The bill has no impact on state funds.

The bill is effective July 1, 2016.

II. Present Situation:

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.[2] Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[3]

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law.[4] Local governments may levy special assessments or fees under their home rule authority. Many governments levy franchise fees on waste collection companies in exchange for the right to be the sole provider to a specific service area.[5] Others may levy special assessments on the property owner to ensure service for that area.[6]

Current law enumerates the powers and duties of all county governments, unless preempted on a particular subject by general or special law.[7] Those powers include the provision of fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies. Municipalities are afforded broad home rule powers except: annexation, merger, exercise of extraterritorial power, and subjects prohibited by the federal, state, or county constitutions or law.[8]

Solid Waste

Counties are granted the power to provide and regulate waste and sewage collection and disposal.[9] Counties are also allowed to require that any person within the county demonstrate the existence of some arrangement or contract by which such person will dispose of solid waste in a manner consistent with county ordinance or state or federal law.[10] Counties have the power and authority to adopt ordinances governing the disposal of solid waste generated outside the county

[1] FLA. CONST. art VIII, s. 1(f).
[2] FLA. CONST. art VIII, s. 1(g).
[3] FLA. CONST. art VIII, s. 2(b). *See also* s. 166.021(1), F.S.
[4] FLA. CONST. art VII, s. 1(a).
[5] *See, e.g.*, City of Tampa, Resolution No. 2012-309.
[6] *See, e.g.*, Orange County Code of Ordinances, Article IV, s. 32-157 (providing that all property entitled to full waste collection services shall be subject to special assessments).
[7] Section 125.01, F.S.
[8] Section 166.021, F.S.
[9] Section 125.01(1)(k)1., F.S.
[10] Section 125.01(1)(k)2., F.S.

at the county's solid waste disposal facility.[11] Counties and municipalities are expressly prohibited from discriminating against privately owned solid waste management facilities.[12]

The Department of Environmental Protection (DEP) is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.[13] The program is required to include procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.[14]

Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.[15] Each county must ensure that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means.[16] In providing services or programs for solid waste management, local governments and state agencies are encouraged to use the most cost-effective means for providing services and are encouraged to contract with private entities for any or all such services or programs to assure that those services are provided on the most cost-effective basis.[17]

Recycled and Recovered Materials

Economically recovering material and energy resources from solid waste can eliminate unnecessary waste and slow the depletion of natural resources.[18] The Legislature has declared that the maximum recycling and reuse of resources are considered high-priority goals of the state.[19] In 2014, 12,684,860 tons of municipal solid waste was recycled in Florida.[20] Section 403.7032(2), F.S., provides that by the year 2020, the long-term goal for the recycling efforts of state and local governmental entities, private companies and organizations, and the general public is to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities.

Competition with Private Companies

Section 403.70605, F.S., was created in 2000[21] to require local governments that provide solid waste management services to be subject to the same requirements as private industry and to

[11] Section 403.706(1), F.S.
[12] *Id.*
[13] *See* s. 403.705, F.S.
[14] Section 403.705(2)(a), F.S.
[15] Section 403.706(1), F.S.
[16] Section 403.706(3), F.S.
[17] Section 403.7063, F.S.
[18] Section 403.7032, F.S.
[19] *Id.*
[20] DEP, *Solid Waste Management in Florida 2014 Annual Report: Florida Municipal Solid Waste Collected and Recycled (2014)*, available at ftp://ftp.dep.state.fl.us/pub/reports/Recycling/Reports/2014AnnualReport/MSW-Composition_2014.pdf (last visited Feb. 1, 2016).
[21] Ch. 00-304, s. 1, Laws of Fla.

impose requirements on local governments providing services outside of their jurisdictions.[22] In 2000, a concern of private waste management companies involved cities and counties that allowed government solid waste departments to compete with private sector companies for specific contracts. Private companies were concerned that in instances where the companies were competing for services, public entities were able to subsidize their costs with funds from other city operations, allowing them to unfairly compete for contracts.[23]

Section 403.70605(1)(a), F.S., states that a local government that provides specific solid waste collection services in direct competition with a private company must:

- Comply with the provisions of local environmental, health, and safety standards that also are applicable to a private company providing such collection services in competition with the local government; and
- Not enact or enforce any license, permit, registration procedure, or associated fee that:
  - Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and
  - Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection services. This does not apply to any zoning, land use, or comprehensive plan requirements.

Section 403.70605(1)(b), F.S., authorizes a private company with which a local government is in competition to bring an action to enjoin violations of these requirements against any local government. However, injunctive relief will not be granted if the official action that forms the basis of the suit forms a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action. The court may, at its discretion, award to the prevailing party or parties costs and reasonable attorneys' fees. This paragraph also sets forth requirements for the complaining party to notify the local government of the violation prior to commencement of the suit.

Theft

Section 812.014, F.S., defines and categorizes thefts into misdemeanor or felony criminal violations. Whether a theft is a misdemeanor or a felony generally depends upon the value of the property taken by the defendant, the defendant's history of theft convictions or, in some cases, the type of property taken. A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.[24]

[22] CS/HB 1425 Staff Analysis, (May 12, 2000), *available at* http://archive.flsenate.gov/data/session/2000/House/bills/analysis/pdf/HB1425S1Z.CA.pdf (last visited Jan. 28, 2016).
[23] *Id.*
[24] Section 812.014(1), F.S.

Second degree petit theft, a second degree misdemeanor,[25] is theft of property valued at less than $100.[26] First degree petit theft, a first degree misdemeanor,[27] is theft of property valued at $100 or more but less than $300.[28] Petit theft incurs greater penalties if there is a prior theft conviction: a first degree misdemeanor if there is a prior conviction,[29] and a third degree felony[30] if there are two or more prior convictions.[31]

Third degree grand theft, a third degree felony, is: theft of property valued at $300 or more but less than $20,000; or theft of specified property (e.g., a firearm or fire extinguisher).[32] Theft of property from a dwelling or its unenclosed curtilage is third degree grand theft, a third degree felony, if the property is valued at $100 or more, but less than $300.[33]

Second degree grand theft, a second degree felony,[34] is theft of:
- Property valued at $20,000 or more but less than $100,000;
- Cargo valued at less than $50,000 in specified circumstances; or
- Emergency medical equipment or law enforcement equipment valued at $300 or more in specified circumstances.[35]

First degree grand theft, a first degree felony,[36] is:
- Theft of property valued at $100,000 or more;
- Theft of a semitrailer deployed by a law enforcement officer;
- Theft of cargo valued at $50,000 or more in specified circumstances; or
- Grand theft and, in the course of committing the offense, a motor vehicle is used as specified or the offender causes damage to the real or personal property of another in excess of $1,000.[37]

[25] A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to $500. Sections 775.082 and 775.083, F.S.
[26] Section 812.014(3)(a), F.S.
[27] A first degree misdemeanor is punishable by up to one year in jail and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.
[28] Section 812.014(2)(e), F.S.
[29] Section 812.014(3)(b), F.S.
[30] A third degree felony is punishable by up to 5 years in state prison and a fine of up to $5,000. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding a third degree felony under ch. 810, F.S.) and total sentence points are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082(10), F.S.
[31] Section 812.014(3)(c), F.S.
[32] Section 812.014(2)(c), F.S.
[33] Section 812.014(3)(d), F.S.
[34] A second degree felony is punishable by up to 15 years in state prison and a fine of up to $10,000. Sections 775.082 and 775.083, F.S.
[35] Section 812.014(2)(b), F.S. However, this theft is reclassified from a second degree felony to a first degree felony if the theft occurs within a county subject to a state of emergency declared by the Governor, is committed after the declaration is made, and is facilitated by conditions arising from the emergency. *Id.*
[36] A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to $10,000. Sections 775.082 and 775.083, F.S.
[37] Section 812.014(2)(a), F.S.

Civil Remedy for Theft

Section 772.11(1), F.S., provides that any person who proves by clear and convincing evidence that he or she has been injured in any fashion by reason of any violation of statutes concerning theft or exploitation of an elderly person or disabled adult is entitled to three times the actual damages sustained and, in any such action, is entitled to minimum damages of $200 and reasonable attorney's fees and court costs in the trial and appellate courts.

Before a person may file an action for damages, the person claiming to be injured must make a written demand for $200 or the treble damage amount of the person liable for the damages. If the person liable for damages complies with the demand within 30 days after the receipt of the demand, that person is released from further civil liability for the act of theft or exploitation by the person making the demand. The section provides that a defendant may recovery reasonable attorney's fees and court costs in the trial and appellate courts if the claim raised was without substantial fact or legal support.[38]

Clear and Convincing Standard

The clear and convincing standard of evidence requires that the evidence must be found to be credible, the facts to which the witnesses testify must be distinctly remembered, the testimony must be precise and explicit, and the witnesses must be lacking in confusion as to the facts at issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.[39]

III. Effect of Proposed Changes:

Section 1 creates s. 403.70491, F.S., to preclude a local government from preventing a private company from listing separately on the company's invoice for solid waste collection, disposal, or recycling any governmental taxes of fees, including any franchise fees.

Section 2 amends s. 403.70605, F.S., to expand the scope of the statute, which currently applies only to solid waste collection, to include solid waste disposal and recycling services.

The bill amends the terms "in competition" and "in direct competition" and "private company" as applied to s. 403.70605(1), F.S., to include disposal and recycling services.

Section 3 creates s. 812.0141, F.S., to create the crime of theft of recyclable property.

For the purposes of the new section, the bill defines "recyclable property" to mean recovered materials, as defined in s. 403.703, F.S., [40] in addition to wooden or plastic pallets.

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[38] Section 772.11, F.S.

[39] Florida Bar Journal, *Considerations before Implementing Florida's Civil Theft Statute*, 77-MAR Fla. B.J. 28 (Mar. 2003).

[40] Section 403.703, F.S., defines "recovered materials" as metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

The bill provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the recyclable property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to possess the recyclable property or of a benefit derived therefrom; or
- Appropriate the recyclable property for his or her own use or to the use of a person not entitled to the use of the recyclable property.

A first or second violation of this section is punished as a first degree misdemeanor, punishable by a term of imprisonment not to exceed one year and a fine not to exceed $1,000. A third or subsequent violation within three years of a prior conviction is punishable as a third degree felony, which is punishable by a term of imprisonment not to exceed five years and a fine not to exceed $5,000. Prosecution for violation of the provision does not preclude prosecution for theft pursuant to s. 812.014, F.S.

The bill provides that a person who proves by clear and convincing evidence that he or she has been injured in any manner by reason of a violation of the provisions of this section may pursue a civil remedy, however, the minimum damage award is $5,000 in addition to reasonable attorney fees and costs in the trial and appellate courts.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/SB 1192 requires that individuals found to be guilty of theft of recyclable property would be subject to new penalties in addition to punishment for the crime of theft.

C. Government Sector Impact:

Expanding the applicability of s. 403.70605, F.S., could result in more litigation costs for local governments that are found to be in violation of the statute due to the addition of solid waste disposal and recycling services. Similarly, restricting the defenses available to local governments could also lead to increased litigation costs.

There is no fiscal impact to state funds.

VI. Technical Deficiencies:

Subsection 403.70605(1), F.S., has been expanded by the bill to include recycling and disposal services. Subsections 403.70605(2) and (3), F.S., apply only to collection services. By changing the definitions of "in competition," "in direct competition," and "private company," as applied to the entire section of law to include recycling and disposal services, the provisions in ss. 403.70605(2) and (3), F.S., become less clear. Most of the language in these two subsections is expressly limited to collection activities, but where it is not expressly limited may lead to confusion.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.70605 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 403.70491 and 812.0141.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on General Government on February 24, 2016:
The committee substitute:

- Removes state agencies as entities that private companies may bring an action against to enjoin a violation of provisions subjecting local governments providing solid waste, disposal, or recycling services to the same requirements as private industry.
- Removes provisions limiting the application of the amended definitions of "in competition," "in direct competition," and "private company" so that the amended definitions now apply to the entire section of law, rather than just subsection (1).

CS by Environmental Preservation and Conservation on February 9, 2016:
The committee substitute:

- Removes provision concerning conditions under which commercial vehicle weight limits may be suspended;

- Removes requirement for certain information to be included on invoices for solid waste disposal, collection, and recycling services;
- Adds a provision prohibiting a local government from preventing a private company from listing certain information on a company's invoice for solid waste collection, disposal, or recycling;
- The bill limited the condition under which a local government may avoid being enjoined by a private company to actions related to the immediate health, safety, or welfare of its citizens. The amendment removes the word "immediate," leaving the original language;
- The amendment restores a provision that was struck in the bill that provided that a local government that exclusively provides solid waste collection services or pursuant to an exclusive franchise was not subject to the provisions of 403.70605(1), F.S., concerning competition with private companies over solid waste collection, disposal, or recycling services. The change in the bill made them subject to those provisions under those circumstances;
- Removes the following provisions from the bill related to solid waste collection services outside a local governments jurisdiction:
  - Local governments that compete with private companies must remit certain funds to the Solid Waste Management Trust Fund; and
  - A reporting requirement;
- Removes changes made by the bill to 403.70605(2) and (3), F.S., regarding Solid Waste Collection Services Outside Jurisdiction and Displacement of Private Waste Companies so that instead of applying to solid waste collection, disposal, or recycling services, the original language is retained so that both subsections apply solely to solid waste collection services; and
- The amendment makes conforming changes to the definitions of "'in competition' or 'in direct competition'" and "private company."

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 53 - 195

and insert:

paragraph (a) against any local government. No injunctive relief shall be granted if the official action that ~~which~~ forms the basis for the suit bears a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the

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challenged action.

2. As a condition precedent to the institution of an action pursuant to this paragraph, the complaining party shall first file with the local government a notice referencing this paragraph and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party is affected. The complaining party may provide evidence to substantiate the claims made in the complaint. Within 30 days after receipt of such a complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If no response is received within 30 days or if appropriate corrective action is not taken within a reasonable time, the complaining party may institute the judicial proceedings authorized in this paragraph. However, failure to comply with this subparagraph may ~~shall~~ not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

3. The court may, in its discretion, award to the prevailing party or parties costs and reasonable attorney ~~attorneys'~~ fees.

(c) This subsection does not apply when the local government is exclusively providing the specific solid waste collection, disposal, or recycling services itself or pursuant to an exclusive franchise.

(2) SOLID WASTE COLLECTION SERVICES OUTSIDE JURISDICTION.—

(a) Notwithstanding s. 542.235, or any other provision of law, a local government that provides solid waste collection services outside its jurisdiction in direct competition with private companies is subject to the same prohibitions against

predatory pricing applicable to private companies under ss. 542.18 and 542.19.

(b) Any person injured by reason of violation of this subsection may sue therefor in the circuit courts of this state and shall be entitled to injunctive relief and to recover the damages and the costs of suit. The court may, in its discretion, award to the prevailing party or parties reasonable attorneys' fees. An action for damages under this subsection must be commenced within 4 years. No person may obtain injunctive relief or recover damages under this subsection for any injury that results from actions taken by a local government in direct response to a natural disaster or similar occurrence for which an emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 or for which such a declaration might be reasonably anticipated within the area covered by such executive order or proclamation.

(c) As a condition precedent to the institution of an action pursuant to this subsection, the complaining party shall first file with the local government a notice referencing this subsection and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party is affected. Within 30 days after receipt of such complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If the local government denies that it has engaged in conduct that is prohibited by this subsection, its response shall include an explanation showing why the conduct complained of does not constitute predatory pricing.

(d) For the purposes of this subsection, the jurisdiction

of a county, special district, or solid waste authority shall include all incorporated and unincorporated areas within the county, special district, or solid waste authority.

(3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(a) As used in this subsection, the term "displacement" means a local government's provision of a collection service which prohibits a private company from continuing to provide the same service that it was providing when the decision to displace was made. The term does not include:

1. Competition between the public sector and private companies for individual contracts;

2. Actions by which a local government, at the end of a contract with a private company, refuses to renew the contract and either awards the contract to another private company or decides for any reason to provide the collection service itself;

3. Actions taken against a private company because the company has acted in a manner threatening to the public health or safety or resulting in a substantial public nuisance;

4. Actions taken against a private company because the company has materially breached its contract with the local government;

5. Refusal by a private company to continue operations under the terms and conditions of its existing agreement during the 3-year notice period;

6. Entering into a contract with a private company to provide garbage, trash, or refuse collection which contract is not entered into under an ordinance that displaces or authorizes the displacement of another private company providing garbage, trash, or refuse collection;

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7. Situations in which a majority of the property owners in the displacement area petition the governing body to take over the collection service;

8. Situations in which the private companies are licensed or permitted to do business within the local government for a limited time and such license or permit expires and is not renewed by the local government. This subparagraph does not apply to licensing or permitting processes enacted after May 1, 1999, or to occupational licenses; or

9. Annexations, but only to the extent that the provisions of s. 171.062(4) apply.

(b) A local government or combination of local governments may not displace a private company that provides garbage, trash, or refuse collection service without first:

1. Holding at least one public hearing seeking comment on the advisability of the local government or combination of local governments providing the service.

2. Providing at least 45 days' written notice of the hearing, delivered by first-class mail to all private companies that provide the service within the jurisdiction.

3. Providing public notice of the hearing.

(c) Following the final public hearing held under paragraph (b), but not later than 1 year after the hearing, the local government may proceed to take those measures necessary to provide the service. A local government shall provide 3 years' notice to a private company before it engages in the actual provision of the service that displaces the company. As an alternative to delaying displacement 3 years, a local government may pay a displaced company an amount equal to the company's

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preceding 15 months' gross receipts for the displaced service in the displacement area. The 3-year notice period shall lapse as to any private company being displaced when the company ceases to provide service within the displacement area. Nothing in this paragraph prohibits the local government and the company from voluntarily negotiating a different notice period or amount of compensation.

(4) DEFINITIONS.—As used in this section, the term:

(a) "In competition" or "in direct competition" means the competition ~~vying~~ between a local government and a private company to provide substantially similar solid waste collection, disposal, or recycling services to the same customer.

(b) "Private company" means an ~~any~~ entity other than a local government or other unit of government which ~~that~~ provides solid waste collection, disposal, or recycling services.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 9 - 11

and insert:

recycling services; revising definitions;

By the Committee on Environmental Preservation and Conservation; and Senator Hays

592-03276-16 20161192c1

A bill to be entitled

An act relating to waste management; creating s. 403.70491, F.S; prohibiting a local government from preventing a private company from listing separately on an invoice for solid waste collection, disposal, or recycling any governmental taxes and fees; amending s. 403.70605, F.S.; revising provisions relating to solid waste collection services to include disposal and recycling services; providing that certain private companies may bring an action against a state agency for specified violations; revising definitions; creating s. 812.0141, F.S.; defining a term; establishing the crime of theft of recyclable property; providing penalties; providing for a civil remedy; providing for attorney fees and costs under certain conditions; providing an effective date.

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

Section 1. Section 403.70491, Florida Statutes, is created to read:

403.70491 Invoices for solid waste collection, disposal, or recycling.—A local government may not prevent a private company from listing separately on the company's invoice for solid waste collection, disposal, or recycling any governmental taxes or fees, including, but not limited to, any franchise fee.

Section 2. Subsections (1) and (4) of section 403.70605, Florida Statutes, are amended to read:

403.70605 Solid waste collection, disposal, or recycling services in competition with private companies.—

(1) SOLID WASTE COLLECTION, DISPOSAL, OR RECYCLING SERVICES

592-03276-16 20161192c1

IN COMPETITION WITH PRIVATE COMPANIES.—

(a) A local government that provides specific solid waste collection, disposal, or recycling services in direct competition with a private company:

1. Shall comply with the provisions of local environmental, health, and safety standards that also are applicable to a private company providing such collection, disposal, or recycling services in competition with the local government.

2. May ~~shall~~ not enact or enforce any license, permit, registration procedure, or associated fee that:

a. Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and

b. Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection, disposal, or recycling services. Nothing in this sub-subparagraph shall apply to any zoning, land use, or comprehensive plan requirement.

(b)1. A private company with which a local government is in competition may bring an action to enjoin a violation of paragraph (a) against any local government or state agency. No injunctive relief shall be granted if the official action that ~~which~~ forms the basis for the suit bears a reasonable relationship to the health, safety, or welfare of the citizens of the local government unless the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.

2. As a condition precedent to the institution of an action

pursuant to this paragraph, the complaining party shall first file with the local government a notice referencing this paragraph and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party is affected. The complaining party may provide evidence to substantiate the claims made in the complaint. Within 30 days after receipt of such a complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If no response is received within 30 days or if appropriate corrective action is not taken within a reasonable time, the complaining party may institute the judicial proceedings authorized in this paragraph. However, failure to comply with this subparagraph may ~~shall~~ not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

3. The court may, in its discretion, award to the prevailing party or parties costs and reasonable attorney ~~attorneys'~~ fees.

(c) This subsection does not apply when the local government is exclusively providing the specific solid waste collection, disposal, or recycling services itself or pursuant to an exclusive franchise.

(2) SOLID WASTE COLLECTION SERVICES OUTSIDE JURISDICTION.—

(a) Notwithstanding s. 542.235, or any other provision of law, a local government that provides solid waste collection services outside its jurisdiction in direct competition with private companies is subject to the same prohibitions against predatory pricing applicable to private companies under ss. 542.18 and 542.19.

(b) Any person injured by reason of violation of this subsection may sue therefor in the circuit courts of this state and shall be entitled to injunctive relief and to recover the damages and the costs of suit. The court may, in its discretion, award to the prevailing party or parties reasonable attorneys' fees. An action for damages under this subsection must be commenced within 4 years. No person may obtain injunctive relief or recover damages under this subsection for any injury that results from actions taken by a local government in direct response to a natural disaster or similar occurrence for which an emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 or for which such a declaration might be reasonably anticipated within the area covered by such executive order or proclamation.

(c) As a condition precedent to the institution of an action pursuant to this subsection, the complaining party shall first file with the local government a notice referencing this subsection and setting forth the specific facts upon which the complaint is based and the manner in which the complaining party is affected. Within 30 days after receipt of such complaint, the local government shall respond in writing to the complaining party explaining the corrective action taken, if any. If the local government denies that it has engaged in conduct that is prohibited by this subsection, its response shall include an explanation showing why the conduct complained of does not constitute predatory pricing.

(d) For the purposes of this subsection, the jurisdiction of a county, special district, or solid waste authority shall include all incorporated and unincorporated areas within the

county, special district, or solid waste authority.

(3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(a) As used in this subsection, the term "displacement" means a local government's provision of a collection service which prohibits a private company from continuing to provide the same service that it was providing when the decision to displace was made. The term does not include:

1. Competition between the public sector and private companies for individual contracts;

2. Actions by which a local government, at the end of a contract with a private company, refuses to renew the contract and either awards the contract to another private company or decides for any reason to provide the collection service itself;

3. Actions taken against a private company because the company has acted in a manner threatening to the public health or safety or resulting in a substantial public nuisance;

4. Actions taken against a private company because the company has materially breached its contract with the local government;

5. Refusal by a private company to continue operations under the terms and conditions of its existing agreement during the 3-year notice period;

6. Entering into a contract with a private company to provide garbage, trash, or refuse collection which contract is not entered into under an ordinance that displaces or authorizes the displacement of another private company providing garbage, trash, or refuse collection;

7. Situations in which a majority of the property owners in the displacement area petition the governing body to take over

the collection service;

8. Situations in which the private companies are licensed or permitted to do business within the local government for a limited time and such license or permit expires and is not renewed by the local government. This subparagraph does not apply to licensing or permitting processes enacted after May 1, 1999, or to occupational licenses; or

9. Annexations, but only to the extent that the provisions of s. 171.062(4) apply.

(b) A local government or combination of local governments may not displace a private company that provides garbage, trash, or refuse collection service without first:

1. Holding at least one public hearing seeking comment on the advisability of the local government or combination of local governments providing the service.

2. Providing at least 45 days' written notice of the hearing, delivered by first-class mail to all private companies that provide the service within the jurisdiction.

3. Providing public notice of the hearing.

(c) Following the final public hearing held under paragraph (b), but not later than 1 year after the hearing, the local government may proceed to take those measures necessary to provide the service. A local government shall provide 3 years' notice to a private company before it engages in the actual provision of the service that displaces the company. As an alternative to delaying displacement 3 years, a local government may pay a displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service in the displacement area. The 3-year notice period shall lapse as

to any private company being displaced when the company ceases to provide service within the displacement area. Nothing in this paragraph prohibits the local government and the company from voluntarily negotiating a different notice period or amount of compensation.

(4) DEFINITIONS.—As used in this section, the term:

(a) "In competition" or "in direct competition" means the competition ~~vying~~ between a local government and a private company to provide substantially similar solid waste collection services to the same customer. For the purposes of subsection (1), the term also refers to the competition between private companies to provide disposal or recycling services to the same customer.

(b) "Private company" means an ~~any~~ entity other than a local government or other unit of government which ~~that~~ provides solid waste collection services. For the purposes of subsection (1), the term also includes entities other than a local government or other unit of government which provide disposal or recycling services.

Section 3. Section 812.0141, Florida Statutes, is created to read:

812.0141 Theft of recyclable property.—

(1) As used in this section, the term "recyclable property" means recovered materials, as defined in s. 403.703, in addition to wooden or plastic pallets.

(2) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the recyclable property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to possess the recyclable property or of a benefit derived therefrom.

(b) Appropriate the recyclable property for his or her own use or to the use of a person not entitled to the use of the recyclable property.

(3) A person who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (2) does not preclude prosecution for theft pursuant to s. 812.014.

(4) A person who commits a third or subsequent violation of subsection (2) within 3 years after the date of a prior violation that resulted in a conviction for a violation of subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(5) A person who proves by clear and convincing evidence that he or she has been injured in any manner by reason of a violation of this section may pursue a civil remedy under s. 772.11. However, notwithstanding s. 772.11, the minimum damage award under this subsection is $5,000, plus reasonable attorney fees and costs in the trial and appellate courts.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1192
Bill Number (if applicable)

Topic WASTE MANAGEMENT

Amendment Barcode (if applicable)

Name CHARLIE LATHAM

Job Title GOVERNMENT AFFAIRS

Address 2016 Oak Ave
Street
Jax Beach FL 32250
City *State* *Zip*

Phone 904-910-4004

Email WLATHAM@WM.COM

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing WASTE MANAGEMENT INC. OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1192
Bill Number (if applicable)

Topic Waste Management

Amendment Barcode (if applicable)

Name Erin Ballas

Job Title

Address 110 E. College Ave
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 8507286387

Email erindalyballas@pacenshitants.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing National Waste and Recycling Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1192
Bill Number (if applicable)

Topic Waste Management

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 222-4082

Email Samantha@frf.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	CS/SB 1248
INTRODUCER:	Banking and Insurance Committee and Senator Diaz de la Portilla
SUBJECT:	Prohibited Insurance Practices
DATE:	February 23, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Recommend: Favorable**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1248 expands the prohibition against a licensed contractor adjusting claims unless the contractor is a licensed public adjuster to include a person that performs emergency remediation or restoration services under an insurance policy and subcontractors to a licensed contractor.

The bill also prohibits specified practices related to the repair, mitigation, and restoration services for which property insurance benefits are payable. The bill provides that a person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable. The bill requires that a person or entity that provides emergency remediation or restoration services for an insured under a property insurance policy must provide the insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing repairs is executed. The bill also requires notice that any assignment is limited to the scope of the work, that the insured may have claims under the insurance policy, and that the insured may wish to contact a public adjuster or attorney to evaluate other claims and coverages. The bill also specifies that the requirements related to prohibited practices do not prohibit the use of post-loss, partial assignments in homeowner's insurance claims.

The bill provides that the Department of Financial Services (DFS) will enforce the provisions prohibiting referral fees and the provisions requiring notifications. The DFS may seek a cease and desist order and may impose, if the cease and desist order is violated, a fine no greater than

$10,000 per violation. The DFS may recommend to the appropriate licensing board that disciplinary action be taken if the violator is a licensee.

The bill has an indeterminate fiscal impact to state funds related to the newly created fines.

The bill takes effect July 1, 2016.

II. Present Situation:

Public Adjusters

A public adjuster is hired and paid for by the policyholder to act on his or her behalf in a claim the policyholder files against an insurance company. Public adjusters can represent a policyholder in any type of insurance claim, not just property insurance claims. Public adjusters, unlike company employee adjusters, operate independently and are not affiliated with any insurance company. Independent and company employee adjusters work for insurance companies. The Department of Financial Services (DFS) regulates all types of adjusters. Section 626.854, F.S., defines "public adjuster" and contains provisions relating to the practice of public adjusting. For example, an insured has the right to rescind a contract within three days of execution.[1]

Assignment of Benefits

In recent years, insurers have complained of abuse of the assignment of benefits process by companies that perform emergency remediation and restoration services. An insurance company recently described the issue in a court filing:

> The typical scenario surrounding the use of an "assignment of benefits" involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured's home and, before performing any work, required the insured to sign an "assignment of benefits" – when the insured would be most vulnerable to fraud and price-gouging. Vendors advised the insured, "We'll take care of everything for you." The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for "overhead and profit," even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors' invoices.[2]

[1] *See* s. 626.854(7), F.S.

[2] *See Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case 1D14-1864 (Fla. 1st DCA), Appellant's Initial Brief at pp. 3-4. (Appellate record citations omitted).

Some of the vendors in litigation involving assignment of benefits are contractors regulated by the Department of Business and Professional Regulation. Water remediation companies are not regulated.

The Public Adjuster Statute and Assignment of Benefits Litigation

Subsection 626.854(16), F.S., prohibits licensed contractors or subcontractors from adjusting claims unless they are licensed as public adjusters. Contractors are allowed to discuss or explain a bid for construction or repair of covered property but are not allowed to adjust the claim. In recent litigation over assignment of benefits, insurers have argued that vendors such as contractors or water remediation companies have acted as public adjusters in violation of the law.[3] Section 626.854, F.S., does not contain an explicit prohibition on vendors such as water remediation companies adjusting claims.

Payment for Referrals

Insurers have complained of practices where water remediation companies pay plumbers referral fees if the plumbers refer business to the water remediation companies.[4] Chapter 455, F.S., the licensing statute for many construction professionals, does not prohibit such arrangements.[5] Subsection 626.854(13), F.S., prohibits public adjusters from paying referral fees.

III. Effect of Proposed Changes:

Section 1 amends s. 626.854, F.S., to prohibit a person that performs emergency remediation or restoration services from adjusting a claim on behalf of the insured unless the person is licensed as a public adjuster. The bill provides that subcontractors have the same prohibition against adjusting claims as contractors.

Section 2 creates s. 627.716, F.S., which provides that a person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable. Both the person offering the prohibited compensation, inducement, or reward and the person receiving such prohibited payment would be in violation of the statute.

The bill provides that an entity or person, including a contractor licensed under part I of ch. 489, F.S., or a subcontractor to the contractor, that provides emergency remediation or restoration

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[3] *See Bioscience West, Inc. v. Gulfstream Property and Casualty Insurance Co.*, Case No. 2D14-3946 (Fla. 2d DCA February 5, 2016)(rejecting the insurer's argument that the vendor unlawfully acted as a public adjuster); *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4th DCA 2015)(declining to address the insurer's argument that the vendor acted as a public adjuster); *Restoration 1 CFL A/A/O I. Joy White v. State Farm Florida Insurance Company*, Case No. 5D15-1049 (Fla. 5th DCA) and *Start to Finish Restoration, LLC v. Homeowners Choice Property & Casualty Ins. Co.*, Case No. 2D-2206 (Fla. 2nd DCA)(appellees argue in briefs that the vendors engaged in illegal public adjusting; cases are pending before the courts).

[4] *See*, e.g. http://piff.net/assignment-of-benefits-insurance-reform-2015-legislative-proposals-fact-sheet/ (last accessed February 10, 2016).

[5] Referral fees are prohibited for some professionals, such as mold remediates. *See* s. 468.8419(1), F.S.

services for an insured under a property insurance policy in this state must:

- Provide an insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing such repairs is executed;
- Notify the insured in writing that any assignment accepted by the person or entity is limited to the scope of the work and that the insured may have other claims under their homeowner's insurance policy that are not covered by the assignment; and
- Inform the insured that the insured may wish to contact a public adjuster or attorney to evaluate other claims and coverages.

The bill provides that it does not prohibit the use of post-loss assignments or partial assignments in homeowner's insurance claims.

The bill gives the DFS enforcement authority over contractors, subcontractors, and other persons that perform repair, mitigation, or restoration of property for which property insurance proceeds are payable regarding the requirements created by this section regarding referrals and notice to policyholders. It provides that the DFS may, in a proceeding initiated pursuant to chapter 120, F.S. (the Administrative Procedures Act), seek a cease and desist order against persons who violated s. 627.716, F.S. The bill provides that if a cease and desist order is violated, the DFS may impose an administrative fine of not more than $10,000 per violation against any person found in violation. Any cease and desist order or administrative fine levied by the DFS may be enforced by appropriate proceedings in the circuit court of the county in which the person resides. The bill provides that the DFS may recommend to the appropriate licensing agency or board that disciplinary action be taken against persons licensed by other agencies or boards.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 1248 creates a $10,000 fine per violation against a person that directly or indirectly offers, delivers, receives, or accepts any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration

of property for which property insurance proceeds are payable. Both the person offering the prohibited compensation, inducement, or reward and the person receiving such prohibited payment would be in violation of the statute.

B. Private Sector Impact:

Water remediation companies and contractors working on property covered by property insurance will have to comply with new contractual provisions created by the bill. The fiscal impact is not known.

C. Government Sector Impact:

The bill provides the DFS with regulatory authority over contractors, subcontractors, and other persons performing repairs, mitigations, or restoration of property for which property insurance proceeds are payable. The DFS does not anticipate a fiscal impact from the bill.[6]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 2 of the bill inconsistently refers to all "property insurance" and "homeowner's insurance." The provisions of Section 2 apply to services for property covered by "property insurance" on lines 51, 55, and 59. The bill on line 64 requires any person providing emergency remediation or restoration services under a property insurance policy to provide a notice that the insured "may have other claims under their homeowner's insurance policy…." The bill also contains language in line 68 that specifying Section 2 does not prohibit the use of post-loss, partial assignments in "homeowner's insurance claims."

VIII. Statutes Affected:

This bill substantially amends section 626.854 of the Florida Statutes.

This bill creates section 627.716 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on February 16, 2016:
The CS added provisions requiring a person or entity performing emergency remediation or restoration services under a property insurance policy to provide the insured with a scope of services to be performed before the agreement authorizing repairs is executed. It

[6] *See* Department of Financial Services, *Bill Analysis Senate Bill 1248* (January 13, 2016) (on file with the Committee on Banking and Insurance).

also added provisions requiring notice relating to assignment of benefits and notice that an insured may wish to contact an attorney or public adjuster. The CS removes provisions relating to a right of rescission and a written estimate.

The CS provides that the DFS may not impose a fine until a person or entity has violated a cease and desist order.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Diaz de la Portilla

597-03682-16 20161248c1

A bill to be entitled

An act relating to prohibited insurance practices; amending s. 626.854, F.S.; adding entities and persons that may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster; revising an exception to include a subcontractor; creating s. 627.716, F.S.; prohibiting a person or entity from certain actions relating to the referral of certain business related to certain repair, mitigation, and restoration services; specifying requirements for an entity or person that provides certain emergency remediation or restoration services; authorizing the Department of Financial Services to seek a cease and desist order and administrative fines for certain violations; authorizing the department to enforce such penalties in a specified circuit court; authorizing the department to recommend disciplinary action to other licensing agencies or boards; providing an effective date.

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

Section 1. Subsection (16) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(16) Any ~~A licensed~~ contractor licensed under part I of chapter 489, ~~or a~~ subcontractor to the contractor, or entity or person that performs emergency remediation or restoration

597-03682-16 20161248c1

services for an insured under an insurance policy in this state may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster under this chapter. However, the contractor or subcontractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor or subcontractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor or subcontractor and the insured.

Section 2. Section 627.716, Florida Statutes, is created to read:

627.716 Prohibited practices related to repair, mitigation, and restoration services; penalties.—

(1) A person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable.

(2) An entity or person, including a contractor licensed under part I of chapter 489 or a subcontractor to the contractor, that provides emergency remediation or restoration services for an insured under a property insurance policy in this state must:

(a) Provide an insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing such repairs is executed.

(b) Notify the insured in writing that any assignment accepted by the person or entity is limited to the scope of the work indicated therein; that the insured may have other claims under their homeowner's insurance policy that are not covered by this assignment; and that the insured may wish to contact a public adjuster or attorney to evaluate other claims and coverages. Nothing in this section prohibits the use of post-loss, partial assignments in homeowner's insurance claims.

(3) The department may, in a proceeding initiated pursuant to chapter 120, seek a cease and desist order, and if a cease and desist order is violated, impose an administrative fine of not more than $10,000 per violation against any person found in the proceeding to have violated this section. Any cease and desist order or administrative fine levied by the department under this subsection may be enforced by the department by appropriate proceedings in the circuit court of the county in which the person resides. The department may recommend to the appropriate licensing agency or board that disciplinary action be taken against persons licensed by other agencies or boards.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

2/24/16 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB1248

Meeting Date *Bill Number (if applicable)*

Topic _____ *Amendment Barcode (if applicable)*

Name Lieutenant Governor Lopez-Cantera

Job Title _____

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.24.16
Meeting Date

1248
Bill Number (if applicable)

Topic Insurance Practices

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Job Title lobbyist

Address 101 E. College Ave #302
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 222-9075

Email akalifeh@cpatgroup.com

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

Amendment Barcode (if applicable)

Name Brian Christensen

Job Title Owner

Address 2202 Hoffner Avenue
Street

Phone 321-234-0464

Orlando FL 32809
City *State* *Zip*

Email restoration1cfl@gmail.com

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Restoration 1 of Central Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited insurance practices

Amendment Barcode (if applicable)

Name Don Phillips

Job Title President

Address 9100 South Dadeland
Street

Phone 866-235-6489

Miami FL 33156
City *State* *Zip*

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Association of Public Insurance Adjusters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Practices

Amendment Barcode (if applicable)

Name Paul Handerhan

Job Title Consultant

Address 120 South Monroe Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 561 704 0428

Email Paul@rambaconsulting.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Florida Association for Insurance Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24
Meeting Date

1248
Bill Number (if applicable)

Topic AOR

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title Counsel

Address _____ Phone 224-7000

Street

Tallahassee FL 32301 Email _____

City *State* *Zip*

Speaking: ☑ For (Reform) ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12.24.16
Meeting Date

1248
Bill Number (if applicable)

Topic Elimination of Referral fees

Amendment Barcode (if applicable)

Name Lisa Miller

Job Title

Address 331 N Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 528 9229

Email lisamiller@lisamillerassoc.com

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Waive in Support

Representing Security First Insurance Company

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

Amendment Barcode (if applicable)

Name Foyt Ralston

Job Title

Address 101 N. Monroe St.
Street

Tall fl 32301
City *State* *Zip*

Phone 222-8611

Email

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Associates of Restoration Specialist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date	Bill Number (if applicable)
	1248

Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Christine Ashburn

Job Title VP- Legislative affairs

Address 2312 Killearn Centre Blvd (Street)

Phone

City State Zip

Email

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Citizens Property Ins. Corp.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

February 16, 2016

The Honorable Alan Hays
Chairman
Appropriations Subcommittee on
General Government Appropriations

Via email

Dear Chairman Hays:

SB 1248 passed the Banking and Insurance Committee today. The next stop is Appropriations Subcommittee on General Government Appropriations and I would appreciate it if you could agenda it at your next meeting.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

Cc: Ms. Jamie DeLoach, Staff Director; Ms. Lisa Waddell, Committee Administrative Assistant

REPLY TO:
☐ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
☐ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/CS/SB 1274 (424308)
INTRODUCER:	Appropriations Subcommittee on General Government; Banking and Insurance Committee; and Senator Latvala
SUBJECT:	Limited Sinkhole Coverage Insurance
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Recommend: Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1274 creates s. 627.7151, F.S., which allows insurers to offer a new type of sinkhole insurance coverage. Limited sinkhole coverage would, as under current law, only provide coverage for "sinkhole loss" which current law defines as structural damage to the covered building, including the foundation, caused by sinkhole activity. Limited sinkhole coverage would also be subject to the statutory requirements for sinkhole insurance in ss. 627.706-627.7074, F.S., with the following exceptions:

- Available only for personal lines residential insurance;
- Coverage may be limited to repairs to stabilize the building and repair the foundation;
- Deductibles may be in an amount agreed to by the insured and insurer;
- Policy limits may be in an amount agreed to by the insured and insurer, provided policy limits below $50,000 are not allowed unless that amount exceeds full replacement costs of the property;
- Requires a signed notice by an applicant that the applicant has read and understands the coverages of limited sinkhole coverage, including when insuring for less than replacement cost or agreeing to a deductible greater than allowed in s. 627.706(1)(b), F.S.;
- Allows insurers to establish limited sinkhole policy forms not subject to filing with and approval by the Office of Insurance Regulation (OIR);
- Until October 1, 2019, insurers may file rates for limited sinkhole coverage that are not subject to the filing and review requirements of s. 627.062(2)(a) and (f), F.S.;

- Until July 1, 2020, surplus lines agents may export coverage to eligible surplus lines insurers without obtaining three declinations from admitted insurers;

The bill establishes surplus requirements of $7.5 million for new and existing insurers that solely transact limited sinkhole coverage insurance. Insurers providing limited sinkhole coverage must notify the OIR at least 30 days prior to offering the coverage in the state. Such insurers must file a plan of operation and financial projections or revisions to such plan, as applicable, with the office.

The bill has no fiscal impact on state funds.

The bill is effective July 1, 2016.

II. Present Situation:

Insurance for Sinkholes and Catastrophic Ground Cover Collapse

A sinkhole is defined in Florida law as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.[1] Sinkholes occur in certain parts of Florida due to the unique geological structure of the land. Sinkholes are geographic features formed by movement of rock or sediment into voids created by the dissolution of water-soluble rock. This type of subsidence formation may be aggravated and accelerated by urbanization and suburbanization, by water usage and changes in weather patterns.

Since 1981, insurers offering property coverage in Florida have been required by law to provide coverage for property damage from sinkholes.[2] In 2007, Florida law was amended to require insurers in Florida to cover only catastrophic ground cover collapse, rather than all sinkhole loss, in the base property insurance policy.[3] Catastrophic ground cover collapse is more severe than sinkhole loss. Catastrophic ground cover collapse means geological activity that results in all the following:

1. The abrupt collapse of the ground cover;
2. A depression in the ground cover clearly visible to the naked eye;
3. Structural damage to the covered building, including the foundation; and
4. The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.[4]

Insurers must also offer policyholders, for an appropriate additional premium, sinkhole loss coverage covering any structure, including personal property contents.[5] Such coverage is subject to the insurer's approved underwriting and insurability guidelines. At a minimum, sinkhole loss coverage includes repairing the covered building, repairing the foundation, and stabilizing the underlying land. All property insurers can restrict catastrophic ground cover collapse and sinkhole loss coverage to the property's principal building. However, by law, Citizens Property

[1] Section 627.706(2)(b), F.S.
[2] Ch. 1981-280, Laws of Fla.
[3] Section 30, Ch. 2007-1, Laws of Fla.
[4] Section 627.706(2)(a), F.S.
[5] Section 627.706, F.S.

Insurance Corporation (Citizens)[6] sinkhole loss coverage does not cover sinkhole losses to appurtenant structures, driveways, sidewalks, decks, or patios. Furthermore, insurers can require an inspection of the property before providing sinkhole loss coverage.

For sinkhole loss coverage in residential property insurance, current law allows insurers to include a deductible that applies only to sinkhole loss in the following amounts: one percent, two percent, five percent, or ten percent of policy dwelling limits. The insurer has the option to choose which sinkhole loss deductible is offered to policyholders and currently, most insurers, including Citizens, offer policyholders only a ten percent sinkhole loss deductible.

Substantial changes to Florida's sinkhole law occurred in 2005, 2006, and 2011.[7] In 2011, the Legislature reviewed the sinkhole law and enacted comprehensive reforms addressing all areas of the law. Data collected by the Office of Insurance Regulation (OIR) in 2010, before the reforms were enacted, showed a significant increase in the number and cost of sinkhole claims from 2006 to 2010.[8] These increases impacted the financial stability of property insurers in Florida, including Citizens, and were used by insurers to justify property insurance rate increases.

2011 Sinkhole Insurance Reforms

The sinkhole reforms enacted in 2011 were in response to the increasing number and cost of sinkhole claims. The goal of the reforms was to keep sinkhole loss insurance available to homeowners while providing more certainty in sinkhole claims for homeowners and insurers in terms of coverage, costs, repairs, and exposure. The bill enacted numerous revisions and clarifications to ss. 627.706-627.7074, F.S., governing sinkhole and catastrophic ground cover collapse insurance.

Definition of Sinkhole Loss

The legislative reforms revised the definition of "sinkhole loss," primarily by creating a statutory definition of "structural damage." A sinkhole loss is defined in statute as structural damage to the covered building, including the foundation, caused by sinkhole activity. The 2011 legislative reforms created a detailed definition of "structural damage" for purposes of determining whether a sinkhole loss has occurred. The definition specifies five distinct types of damage that constitute structural damage. Each type of damage is tied to standards contained in the Florida Building Code or used in the construction industry. Accordingly, in order for the policyholder to obtain policy benefits for sinkhole loss, the insured structure must sustain structural damage as defined by the bill that is caused by sinkhole activity.

[6] Citizens Property Insurance Corporation is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company.
[7] chs. 2005-111, 2006-12, and 2011-39, Laws of Fla.
[8] *Report on Review of the 2010 Sinkhole Data Call by the Office of Insurance Regulation*, Nov. 8, 2010, http://www.floir.com/siteDocuments/Sinkholes/2010_Sinkhole_Data_Call_Report.pdf (last visited Feb. 5, 2016).

Investigation and Payment of Sinkhole Claims

The 2011 legislative sinkhole reforms substantially revised the statutory process for investigating and paying sinkhole claims in s. 627.707, F.S. The process requires the insurer to determine whether the building has incurred structural damage that has been caused by sinkhole activity.[9] Coverage for sinkhole loss is not available if structural damage is not present or sinkhole activity is not the cause of structural damage. This process is as follows:

- Initial Inspection and Structural Damage Determination – Upon receipt of a claim for sinkhole loss, the insurer must inspect the policyholder's premises to determine if there has been structural damage which may be the result of sinkhole activity.[10] This inspection will often require the insurer to retain a professional engineer to evaluate whether the insured building has incurred structural damage as defined by statute.
- Sinkhole Testing – The insurer is required to engage a professional engineer or professional geologist to conduct sinkhole testing pursuant to s. 627.7072, F.S., if the insurer confirms that structural damage exists and is either unable to identify a valid cause of the structural damage or discovers that the structural damage is consistent with sinkhole loss.[11] If coverage is excluded under the policy even if sinkhole loss is confirmed, then the insurer is not required to conduct sinkhole testing.[12]
- Notice to the Policyholder – The insurer must provide written notice to the policyholder detailing what the insurer has determined to be the cause of damage (if the determination has been made) and a statement of the circumstances under which the insurer must conduct sinkhole testing.[13] The policyholder must also be notified of his or her right to demand sinkhole testing and the circumstances under which the policyholder may incur costs associated with testing.[14]
- Authorization to Deny Sinkhole Claim – An insurer may deny a claim upon a determination that there is no sinkhole loss.[15]
- Policyholder Demand for Sinkhole Testing – The policyholder may demand sinkhole testing in writing within 60 days after receiving a claim denial if the insurer denied the claim without performing sinkhole testing and coverage would be available[16] if a sinkhole loss is confirmed.[17] However, a policyholder requesting such testing must pay the insurer 50 percent of the sinkhole testing costs up to $2,500.[18] If the requested testing confirms a sinkhole loss the insurer must reimburse the testing costs to the policyholder.[19]
- Payment of Sinkhole Claims – If a sinkhole loss is verified, the insurer must pay to stabilize the land and building and repair the foundation in accordance with the recommendation of the professional engineer retained by the insurer.[20] Payment for other repairs to the structure

[9] Section 627.707(1), F.S.
[10] See *id*.
[11] Section 627.707(2), F.S.
[12] See *id*.
[13] Section 627.707(3), F.S.
[14] See *id*.
[15] Section 627.707(4)(a), F.S.
[16] The claim denial was not issued due to policy conditions or exclusions of coverage and instead was based the failure of the loss to meet the definition of sinkhole loss.
[17] Section 627.707(4)(b), F.S.
[18] Section 627.707(4)(b)2., F.S.
[19] Section 627.707(4)(b)3., F.S.
[20] Section 627.707(5), F.S.

and contents are governed by the insurance policy. The insurer may limit payment to the actual cash value of the sinkhole loss not including below-ground repair techniques until the policyholder enters into a contract for the performance of building stabilization repairs.[21] The contract for below-ground repairs must be made in accordance with the recommendations set forth in the insurer's sinkhole report issued pursuant to s. 627.7073, F.S.,[22] and entered into within 90 days after the policyholder receives notice that the insurer has confirmed coverage for sinkhole loss.[23] The time period is tolled if either party invokes neutral evaluation. If repairs cannot be completed within policy limits, the insurer may either pay to complete the recommended repairs or tender policy limits without a reduction for repair expenses already incurred.[24]

Other Revisions

The 2011 bill authorized insurers to restrict catastrophic ground cover collapse and sinkhole loss coverage to the principal building as defined in the insurance policy. The bill also allows an insurer to require a property inspection prior to issuing sinkhole loss coverage. The bill clarified that additional living expense coverage is only available pursuant to a sinkhole loss if there is structural damage to the covered building.

Results of 2011 Sinkhole Insurance Reforms

The first complete year the reforms were in effect was 2012.[25] No data has been collected on an industry-wide basis on the number of claims, claim severity, or claim costs since the reforms were enacted, so the impact on sinkhole claims and costs on an industry-wide basis is unknown. However, Citizens performed a sinkhole study in 2012 to compute the impact of the 2011 reforms on their policies.[26] This study looked at actual sinkhole claim files from Citizens and readjusted the losses and expenses associated with the claims as if the 2011 reforms had been in effect. The actuarial analysis which accompanied the study projected the 2011 reforms would reduce Citizens' expected incurred sinkhole losses for 2013 by almost 55 percent. In Citizens' rate filing for 2014,[27] their actuary projected Citizens' sinkhole losses would decrease by over 52 percent relative to what they would have been without the 2011 reforms. The actuary further noted, however, that even with the projected reduction in sinkhole losses, Citizens still has a significant rate deficiency in the sinkhole area. In fact, in 2012, Citizens earned almost $57 million in sinkhole premium but paid almost $227 million in sinkhole losses and expenses.

[21] Section 627.707(5)(a), F.S.
[22] Section 627.707(5), F.S.
[23] Section 627.707(5)(b), F.S.
[24] Section 627.707(5), F.S.
[25] The reforms were effective on May 17, 2011, when the bill (CS/CS/CS/SB 408) was signed by the Governor.
[26] *Citizens Property Insurance Corporation Senate Bill 408 Sinkhole Analysis*, prepared by Insurance Services Office, dated Jul. 19, 2012, and presented at Citizens' Board of Governors Meeting on Jul. 27, 2012, https://www.citizensfla.com/documents/20702/643634/07AH_Citizens_SB408__Sinkhole__Analysis.pdf/a26f62af-b142-4b5c-aed2-35821603c1a0 (last visited Feb. 9, 2016).
[27] Citizens Property Insurance Company, *2014 Rate Kit*, pg. 4, https://www.citizensfla.com/documents/20702/124817/2014+Rate+Kit.pdf/7564c271-8e83-427d-8cb4-ca41b67a2e57 (last visited Feb. 9, 2016).

According to data accompanying Citizens 2016 rate filing,[28] in 2014, new sinkhole claim volume was down 68 percent from 2013. This continued a trend of annual reductions in the number of sinkhole claims filed with the corporation. In 2011, over 4,500 sinkhole claims were reported to Citizens. In 2012, that number decreased to approximately 3,100 claims and in 2013 the total claims received was approximately 1,200.[29] Total incurred losses and allocated loss adjustment expenses have dropped substantially from approximately $537 million in 2011 to approximately $83 million in 2014.[30]

Standards for Sinkhole Testing and Sinkhole Reports

Section 627.7072, F.S., requires sinkhole testing to be performed by a professional engineer and a professional geologist. The tests performed must be sufficient for the professional geologist and professional engineer to determine the presence of a sinkhole loss or other cause of damage. The tests must also enable the professional engineer to make recommendations regarding necessary building stabilization and foundation repair.

Upon the completion of sinkhole testing, the professional engineer or professional geologist must issue a report and certification to the insurer and the policyholder pursuant to the requirements of s. 627.7073, F.S. The report must detail the testing performed, whether structural damage is present, whether sinkhole activity is the cause of the damage, and any recommendations for stabilizing the land and building and making foundation repairs. The findings and recommendations of the insurer's professional engineer are presumed to be correct. If an insurer pays a claim for sinkhole loss, the insurer must file a copy of the report and certification and other required documentation with the county clerk of court. Once building stabilization or foundation repairs are complete for a verified sinkhole loss, the engineer responsible for monitoring repairs must issue a report to the policyholder detailing the repairs performed and certify that the repairs were performed properly. The report must also be filed with the county clerk of court.

Neutral Evaluation

Neutral evaluation is an alternative procedure in s. 627.7074, F.S., for the resolution of disputed sinkhole insurance claims for which a sinkhole testing report[31] has been issued. The neutral

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[28] Citizens Property Insurance Company, *2016 Rate Kit*, pg. 10, https://www.citizensfla.com/documents/20702/30286/2016+Rate+Hearing+Kit/479c1ab7-f120-47ca-a158-6f908ff36d1a (last visited Feb. 9, 2016).

[29] Citizens Property Insurance Company, *Citizens Property Insurance Corporation Actuarial & Underwriting Committee Recommended Rate Filing Executive Summary, Jun. 23, 2015*, at pg. 5, https://www.citizensfla.com/documents/20702/27059/02_2016_Annual_Recommended_Rate_Filing_Exec_Summary.pdf/57019cdf-e272-4307-b78e-620883395be0 (last visited Feb. 9, 2016).

[30] Citizens Property Insurance Corporation, *2016 Rate Hearing*, pg. 19, https://www.citizensfla.com/documents/20702/30286/2016+Rate+Hearing+Kit/479c1ab7-f120-47ca-a158-6f908ff36d1a (last visited Feb. 9, 2016).

[31] Section 627.7073, F.S., contains the statutory standards for a sinkhole report. A sinkhole report must be based on tests performed by a professional engineer and professional geologist that, as required by s. 627.7072, F.S., are sufficient to determine the presence or absence of sinkhole loss and allow the professional engineer to make recommendations regarding necessary building stabilization and foundation repair. The sinkhole report must contain the opinion of the professional engineer or professional geologist as to whether a sinkhole loss is present, and if so, the recommendation of the professional engineer of methods for stabilizing the land and repairing the foundation.

evaluator must have sufficient professional training and credentials to render opinions as to causation, and if applicable, the recommended method of repair and the estimated cost of such repairs.[32] Neutral evaluation is nonbinding, but the insurer and policyholder must participate if either party requests it.[33] At a minimum, neutral evaluation must determine the cause of the loss, all methods of stabilization and repair both above and below ground, the costs for stabilization and all repairs, and the information necessary to issue a report of the neutral evaluator's findings and recommendations.[34]

Neutral evaluation is an informal process in which formal rules of evidence and procedure need not be observed.[35] The insurer or the policyholder request neutral evaluation by sending written notice to the Department of Financial Services (DFS).[36] The DFS then provides a list of certified neutral evaluators to the parties who have 14 days to select a neutral evaluator.[37] If the parties cannot agree to a neutral evaluator, the department makes the selection. Once a neutral evaluator is selected, within 14 days he or she must notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference.[38]

Once a neutral evaluator has been selected by the parties or appointed by the DFS, the insurer submits the sinkhole testing report to the neutral evaluator and the policyholder submits all reports initiated by the policyholder or an agent of the policyholder that either confirm sinkhole loss or dispute the results of another report.[39] The neutral evaluator must be allowed reasonable access to the interior and exterior of the insured structures to be evaluated.[40] At the conclusion of neutral evaluation, the neutral evaluator must prepare a report describing all matters that are the subject of neutral evaluation, including whether a sinkhole loss has occurred, and, if so, the estimated costs of stabilizing the land and any covered building and other appropriate repairs.[41] The recommendation of the neutral evaluator and his or her testimony must be admitted in any litigation relating to the insurance claim.[42] If the insurer timely complies with the recommendation of the neutral evaluator, the insurer is not liable for extra-contractual damages related to issues determined under neutral evaluation.[43]

Surplus Requirements

To transact insurance in Florida, insurers must apply for a certificate of authority and meet certain surplus requirements. For a new domestic insurer that transacts residential property insurance and is:

- Not a wholly owned subsidiary of an insurer domiciled in any other state, the surplus requirement is at least $15 million.

[32] See s. 627.7074(1)(a), F.S., and s. 627.7074(11), F.S.
[33] Section 627.7074(4), F.S.
[34] Section 627.7074(2), F.S.
[35] Section 627.7074(5), F.S.
[36] Section 627.7074(4), F.S.
[37] Section 627.7074(7), F.S.
[38] See *id*.
[39] See section 627.7074(2) and (5), F.S.
[40] Section 627.7074(5), F.S.
[41] Section 627.7074(12), F.S.
[42] Section 627.7074(13), F.S.
[43] Section 627.7074(15), F.S.

- A wholly owned subsidiary of an insurer domiciled in any other state, the requirement is at least $50 million.

Under current law, the surplus requirements for existing insurers are different than the requirements for new insurers. For property and casualty insurers, the requirement is $4 million, except for property and casualty insurers authorized to underwrite any line of residential property insurance. For residential property insurers not holding a certificate of authority before July 1, 2011, the requirement is $15 million. For residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016, $5 million; on or after July 1, 2016, and until June 30, 2021, $10 million; on or after July 1, 2021, $15 million.

Rate Filings for Property, Casualty, and Surety Insurance

The rating requirements for property, casualty, and surety insurance are located in part I of ch. 627, F.S., entitled the "Rating Law," and apply to property, casualty, and surety insurance. The law states that the rates for all classes to which part I applies "shall not be excessive, inadequate, or unfairly discriminatory."[44] The Office of Insurance Regulation (OIR) has the responsibility to review and approve or disapprove rates charged by insurance companies to ensure compliance with the rate standards.

Section 627.062(2)(a), F.S., describes the filing process and time frames that must be followed by all insurers subject to its provisions. Generally, insurers may choose to submit their rate to the OIR pursuant to either the "file and use" method or the "use and file" method. Under "file and use," the insurer submits its proposed rate to the OIR at least 90 days before the rate's effective date but does not implement the rate until it is approved. Under "use and file," the insurer may implement the rate before filing for approval, but must submit the filing within 30 days of the rate's effective date. Under "use and file," if a portion of the rate is subsequently found to be excessive, the insurer must refund to policyholders the portion of the rate that is excessive.

The OIR applies the following factors in determining whether a rate is excessive, inadequate, or unfairly discriminatory:

- Past and prospective loss experience in Florida and in other jurisdictions;
- Past and prospective expenses;
- Degree of competition to insure the risk;
- Investment income reasonably expected by the insurer;
- Reasonableness of the judgment reflected in the filing;
- Dividends, savings, or unabsorbed premium deposits returned to Florida insureds;
- Adequacy of loss reserves;
- Cost of reinsurance;
- Trend factors, including those for actual losses per insured unit;
- Catastrophe and conflagration hazards, when applicable;
- Projected hurricane losses, if applicable;
- A reasonable margin for underwriting profit and contingencies;
- Cost of medical services, when applicable; and

[44] Section 627.062(1), F.S.

- Other relevant factors impacting frequency and severity of claims or expenses.

III. Effect of Proposed Changes:

Creation of Limited Sinkhole Coverage Insurance and Application of Current Law to Coverage [s. 627.7151(1) and (2), F.S.]

The bill creates s. 627.7151, F.S., which allows insurers to offer a new type of sinkhole insurance coverage. Limited sinkhole coverage would, as under current law, only provide coverage for "sinkhole loss" which is defined in statute as structural damage to the covered building, including the foundation, caused by sinkhole activity. Limited sinkhole insurance is authorized only for personal lines residential insurance, not commercial lines residential insurance (such as condominium association and homeowners association coverages) or commercial lines insurance. Insurers may exclude from limited sinkhole coverage insurance coverage for contents and additional living expenses. The section created by the bill does not apply to excess coverage for sinkhole loss. Limited sinkhole coverage is subject to the statutory requirements for sinkhole insurance in ss. 627.706-627.7074, F.S., except as otherwise provided in the bill.

Scope of Benefits Provided [s. 627.7151(3)(a), F.S.]

Coverage may be limited to repairs to stabilize the building and repair the foundation in accordance with the recommendations of the professional engineer retained pursuant to s. 627.707(2), F.S. Currently, s. 627.707(5), F.S., directs insurers to pay for building stabilization and foundation repair but also requires that the insurer, "shall pay for other repairs to the structure and contents in accordance with the terms of the policy." The bill specified that limited sinkhole coverage insurance may be issued that does not provide coverage for "other repairs to the structure and contents."

The bill retains the current requirement that if the insurer's professional engineer determines that the repair cannot be completed within policy limits, the insurer must pay to complete the repairs recommended by the insurer's professional engineer or tender the policy limits to the policyholder. The bill does not retain a provision in s. 627.707(5)(c), F.S., which applies when below-ground sinkhole remediation repairs begin and the engineer selected by the insurer determines that repairs cannot be completed within policy limits. In that situation, the statute requires the insurer to complete the repairs regardless of the policy limit or tender the full policy limit without a reduction for repairs already performed.

Deductibles and Policy Limits [s. 627.7151(3)(b) and (c), F.S.]

Currently, sinkhole deductibles may only be one percent, two percent, five percent, or ten percent of the dwelling policy limits. Limited sinkhole insurance may contain those deductibles and alternatively may have a deductible in any amount agreed to by the insured and insurer.

The policy limit may be any amount agreed to by the insured and insurer as long as the limit is between $50,000 and the full replacement cost of the property.

Required Notice to Policyholders [s. 627.7151(4), F.S.]

The insurance agent must obtain from an applicant for limited sinkhole insurance a signed acknowledgment that contains the following statement in at least 12-point bold, uppercase type: "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY I HAVE READ AND UNDERSTAND THE LIMITATIONS THAT APPLY TO MY POLICY." The signed acknowledgment must also include notices to the policyholder if the policy limit is less than replacement cost or contains a deductible greater than ten percent. The notice for a policy limit less than replacement cost is: "THIS POLICY LIMITS SINKHOLE COVERAGE TO LESS THAN THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN THIS PROPERTY AT RISK." The notice for a deductible greater than ten percent is: "THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT PERMITTED FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

Exemption from Form and Rate Approval [s. 627.7151(5) and (6)]

The bill allows insurers to establish limited sinkhole coverage policy forms not subject to filing with and approval by the Office of Insurance Regulation (OIR).

The bill allows insurers to develop rates for the new version of sinkhole insurance created by the bill under the full rate review process provided for in s. 627.062, F.S. Alternatively, the bill allows the use of rates developed by an alternative option if the rate filing is submitted to the OIR before October 1, 2019. Under the alternative option created by the bill, a rate filing for the sinkhole coverage created by the bill is exempt from the filing and review requirements of s. 627.062(2)(a) and (f), F.S., and the insurer must make an informational filing. In the informational filing, the insurer must notify the OIR of any change to its sinkhole insurance rates, including the average statewide percentage change in rates, no later than 30 days after the effective date of the change in rates. Insurers that utilize this option must maintain actual data regarding its sinkhole insurance rates for two years after the effective date of those rates.

Regardless of the rate filing method used, a rate still cannot be excessive, inadequate, or unfairly discriminatory. The insurer writing the sinkhole insurance is responsible for ensuring the rate charged meets this requirement. The bill allows the OIR to examine an insurer's documentation supporting a rate to verify the rate meets the requirement with the insurer paying for the examination. During an examination, the OIR uses the rate factors and standards in current law that apply to property, casualty and surety insurance rates filed with the OIR to determine whether the sinkhole insurance rate charged is excessive, inadequate, or unfairly discriminatory. Additionally, the insurer must notify the OIR within 30 days of a rate change for sinkhole insurance that was originally set by this method. Setting sinkhole rates using this method is similar to what is allowed in current law for rates for flood insurance and certain types of commercial lines risks under s. 627.062(3)(d), F.S.

Surplus Lines [s. 627.7151(7), F.S.]

Currently, no insurance coverage is eligible for export to a surplus lines insurer unless it meets certain conditions. One condition is that an agent has sought coverage from and received three documented rejections from authorized insurers currently writing the same type of coverage. Until July 1, 2020, the bill allows this new sinkhole coverage for personal lines residential property to be written by a surplus lines insurer without the agent obtaining three declinations for insurance from Florida licensed sinkhole insurers. This provision tracks the same language in place for flood insurance regarding surplus lines insurers. However, the other requirements governing the exporting of coverage to the surplus lines continue to apply.

Regulatory Requirements [s. 627.7151(8), F.S.]

Insurers providing sinkhole coverage must notify the OIR at least 30 days before writing sinkhole insurance in this state. Insurers must also file a plan of operation and financial projections or revisions to such plan, as applicable, with the OIR.

Surplus Requirements for Insurers Transacting Only Limited Sinkhole Coverage Insurance [s. 624.407, F.S., and s. 624.408, F.S.]

The bill reduces the surplus as to policyholder requirements for new and existing insurers that only transact limited sinkhole insurance for personal lines residential property pursuant to s. 627.7151, F.S., to $7.5 million.

Effective Date

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The economic impact on the private sector is unknown. The limited sinkhole insurance created by the bill may be more readily available in sinkhole-prone areas of the state such as Hillsborough, Pinellas, Pasco, and Hernando counties. If insurers offering this new sinkhole insurance raise deductibles and initiate limits on coverage (sub-limits), policyholders may have lower premiums. However, if a policyholder experienced a sinkhole, the out-of-pocket costs to the policyholder may be higher than if the policyholder has currently existing sinkhole insurance. For policyholders who currently lack sinkhole insurance, the coverage provided by limited sinkhole insurance would reduce out-of-pocket expenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 624.407 and 624.408.

This bill creates section 627.7151 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on General Government on February 24, 2016:
Removes language limiting the assignment of benefits from a policyholder to only a subsequent purchaser of the property who acquires insurable interest following a loss.

CS by Banking and Insurance on February 9, 2016:

- Limited sinkhole coverage is not required to insure the contents of personal property or additional living expenses.
- Removes the requirement that contents of personal property be adjusted at replacement cost and not actual cash value.
- Allows for limited sinkhole coverage to repair and stabilize the building and foundation in accordance with the recommendations of a professional engineer. If

repairs cannot be completed within policy limits, the insurer must pay to complete the repairs or tender the policy limits to the policyholder.
- Allows a deductible in an amount agreed to by the insured and insurer.
- Allows policy limits agreed to by the insured and insurer, provided policy limits below $50,000 are not allowed unless that amount exceeds full replacement costs of the property.
- Requires a signed notice by an applicant that they have read and understand the coverages of limited sinkhole coverage, including when insuring for less than replacement cost or agreeing to a deductible greater than allowed in s. 627.706(1)(b), F.S.
- Allows limited sinkhole insurers to establish their own forms without needing approval by the Office of Insurance Regulation (OIR).
- Removes the prohibition that Citizens must stop writing sinkhole coverage after July 1, 2018.
- Removes the requirement that the Florida Commission on Hurricane Loss Projection Methodology approve sinkhole models.
- Removes an erroneous statement that the Florida Hurricane Catastrophe Fund cannot cover sinkhole loss.

B. Amendments:

None.

906798

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 167 - 170.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 29 - 31.

382928

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 177 - 180.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 34 - 35

and insert:

operation with the office; providing an

By the Committee on Banking and Insurance; and Senator Latvala

597-03221-16 20161274c1

A bill to be entitled

An act relating to limited sinkhole coverage insurance; amending s. 624.407, F.S.; specifying the amount of surplus funds required for domestic insurers applying for a certificate of authority to provide limited sinkhole coverage insurance; amending s. 624.408, F.S.; specifying the minimum surplus that must be maintained by insurers that provide limited sinkhole coverage insurance; creating s. 627.7151, F.S.; authorizing certain insurers to offer limited sinkhole coverage insurance in this state; providing applicability; providing a limitation of coverage; authorizing a specified limitation of coverage subject to a certain condition; authorizing certain policy terms; requiring an insurance agent to obtain a specified signed acknowledgement from an applicant before issuing a policy; authorizing insurer forms and exempting forms from approval; authorizing an insurer to establish and use rates in accordance with specified rate standards; requiring an insurer to provide a specified notice of changes to rates within a specified time frame to the Office of Insurance Regulation; requiring an insurer to maintain certain actuarial data for a specified time frame; authorizing the office to require an insurer to incur the costs associated with examining such data; providing factors for the office in determining whether a rate is excessive, inadequate, or unfairly discriminatory; authorizing a surplus lines agent to export a contract or endorsement for sinkhole coverage to a surplus lines insurer without meeting certain requirements; requiring the insurer to notify the office before

597-03221-16 20161274c1

writing sinkhole insurance and to file a plan of operation with the office; prohibiting assignments of post-loss claims; providing an exception; providing an effective date.

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

Section 1. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Surplus required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer applying for its original certificate of authority in this state shall possess surplus as to policyholders at least the greater of:

(a) For a property and casualty insurer, $5 million, or $2.5 million for any other insurer;

(b) For life insurers, 4 percent of the insurer's total liabilities;

(c) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance;

(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities; ~~or~~

(e) Notwithstanding paragraph (a) or paragraph (d), for a domestic insurer that transacts residential property insurance and is:

1. Not a wholly owned subsidiary of an insurer domiciled in

any other state, $15 million.

2. A wholly owned subsidiary of an insurer domiciled in any other state, $50 million; or

(f) Notwithstanding paragraphs (a), (d), and (e), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, $7.5 million.

Section 2. Paragraph (h) is added to subsection (1) of section 624.408, Florida Statutes, to read:

624.408 Surplus required; current insurers.—

(1) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state must at all times maintain surplus as to policyholders at least the greater of:

(h) Notwithstanding paragraphs (e), (f), and (g), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, $7.5 million.

The office may reduce the surplus requirement in paragraphs (f) and (g) if the insurer is not writing new business, has premiums in force of less than $1 million per year in residential property insurance, or is a mutual insurance company.

Section 3. Section 627.7151, Florida Statutes, is created to read:

627.7151 Limited sinkhole coverage insurance.—

(1) An authorized insurer may issue, but is not required to make available, a limited sinkhole coverage insurance policy

providing personal lines residential coverage, subject to underwriting, for the peril of sinkhole loss on any structure or the contents of personal property contained therein, subject to this section and ss. 627.706-627.7074. This section does not apply to commercial lines residential or commercial lines nonresidential coverage for the peril of sinkhole loss. This section also does not apply to coverage for the peril of sinkhole loss that is excess coverage over any other insurance covering the peril of sinkhole loss.

(2) Limited sinkhole coverage insurance must cover only losses from the peril of sinkhole loss, as defined in s. 627.706(2)(j); however, such coverage shall not be required to provide for contents and additional living expenses.

(3) Limited sinkhole coverage insurance may:

(a) Notwithstanding s. 627.707(5), limit coverage to repairs to stabilize the building and repair the foundation in accordance with the recommendations of the professional engineer retained pursuant to s. 627.707(2). However, if the insurer's professional engineer determines that the repair cannot be completed within policy limits, the insurer must pay to complete the repairs recommended by the insurer's professional engineer or tender the policy limits to the policyholder.

(b) In addition to the deductibles authorized under s. 627.706(1)(b), offer deductibles agreed to by the insured and insurer.

(c) Offer policy limits agreed to by the insured and insurer, provided policy limits below $50,000 are not allowed unless that amount exceeds full replacement costs of the property.

(4) Before issuing a limited sinkhole coverage insurance policy under this section, the insurance agent must obtain from an applicant an acknowledgement signed by the applicant that includes the following statement in at least 12-point bold, uppercase type: "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY I HAVE READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY POLICY." The signed acknowledgment must also include, in at least 12-point bold, uppercase type, for a policy:

(a) That limits limited sinkhole coverage to an amount less than the full replacement cost of the property, the following statement: "THIS POLICY LIMITS SINKHOLE COVERAGE TO LESS THAN THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN THIS PROPERTY AT RISK."

(b) That provides for a deductible which exceeds the deductibles authorized under s. 627.706(1)(b), the following statement: "THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT PERMITTED FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

(5) An insurer may establish and use limited sinkhole coverage forms. Limited sinkhole coverage forms are not subject to filing and approval pursuant to s. 627.410.

(6)(a) An insurer may establish and use limited sinkhole coverage rates in accordance with the rate standards provided in s. 627.062.

(b) For limited sinkhole coverage rates filed with the office before October 1, 2019, the insurer may also establish and use such rates in accordance with the rates, rating

schedules, or rating manuals filed by the insurer with the office which allow the insurer a reasonable rate of return on limited sinkhole coverage written in this state. Limited sinkhole coverage rates established pursuant to this paragraph are not subject to s. 627.062(2)(a) or (f). An insurer shall notify the office of any change to such rates within 30 days after the effective date of the change. The notice must include the name of the insurer and the average statewide percentage change in rates. Actuarial data with regard to such rates for limited sinkhole coverage must be maintained by the insurer for 2 years after the effective date of such rate change and is subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors in s. 627.062(2)(b) and (d), and the standards in s. 627.062(2)(e), to determine whether the rate is excessive, inadequate, or unfairly discriminatory.

(7) A surplus lines agent may export limited sinkhole coverage insurance to an eligible surplus lines insurer without satisfying the conditions set forth in s. 626.916(1). This subsection expires July 1, 2020.

(8) In addition to any other applicable requirements, an insurer providing limited sinkhole coverage in this state must:

(a) Notify the office at least 30 days before writing limited sinkhole coverage insurance in this state.

(b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the office.

(9) A policyholder of a limited sinkhole coverage insurance

policy authorized by this section who incurs a covered loss may not assign a post-loss claim except to a subsequent purchaser of the property who acquires insurable interest following a loss.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1274
Bill Number (if applicable)

Topic Sinkhole

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Association For Insurance Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

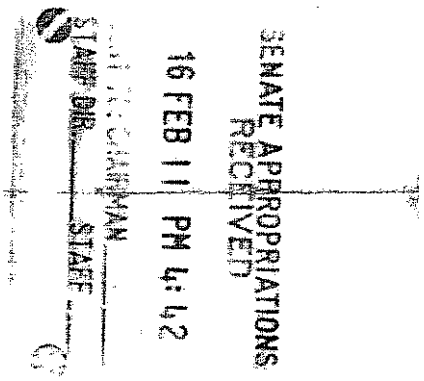
THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

February 11, 2016



The Honorable Alan Hays, Chair
Appropriations Subcommittee on General Government
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Hays:

I respectfully request consideration of Senate Bill 1274/Sinkhole at your earliest convenience.

Specifically SB 1274 would allow for insurance companies to offer homeowner protection for sinkhole damage that is deemed less than catastrophic.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Jamie DeLoach, Staff Director; Lisa Waddell, Administrative Assistant

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: *www.flsenate.gov*

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/SB 1290 (914914)
INTRODUCER:	Appropriations Subcommittee on General Government and Senator Simpson
SUBJECT:	State Lands
DATE:	February 26, 2016 REVISED: 03/02/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1290 consolidates the acquisition and surplus procedures currently provided in chapter 253, F.S., for nonconservation lands and chapter 259, F.S., for conservation lands. Additionally, the bill:

- Requires conservation lands to be managed for conservation and/or recreation, consistent with the land management plan, rather than for the purposes for which the lands were acquired.
- Authorizes the Department of Environmental Protection (DEP or department) to submit lands for which the managing or leasing entities are not meeting their short-term goals to the Acquisition and Restoration Council (ARC) for review.
- Requires the Board of Trustees of the Internal Improvement Trust Fund (board) to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses related to water-dependent uses.
- Creates a process whereby a person who owns land contiguous to land titled to the board is authorized to submit a request to the division to exchange all or a portion of the state-owned land, with the state retaining a permeant conservation easement over all or a portion of the contiguous privately owned land.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.
- Requires the department to add federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a

conservation easement to the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database by July 1, 2018.
- Requires each local government to submit to the DEP a list of all conservation lands it owns or holds a permanent conservation easement on by July 1, 2018. Financially disadvantaged small communities have an additional year to submit the information.
- Directs the department to complete a study regarding the technical and economic feasibility of including privately owned conservation lands in a public lands inventory by July 1, 2018.
- Revises the noticing requirements that a water management district must adhere to when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Requires increased priority to be given to proposed Florida Forever projects that:
  - Can be acquired in less than fee ownership;
  - Contributes to improving the quality and quantity of surface water or groundwater, or;
  - Contributes to improving the water quality and flow of springs.

The bill provides $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund appropriated to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

State Lands

The Board of Trustees of the Internal Improvement Trust Fund (board) consists of the Governor, as the chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture.[1] All lands held by the board are required to be held in trust for the use and benefit of the people of the state.[2] According to the Department of Environmental Protection (DEP or department), the board has title to approximately 13 million acres of land, which includes 3,146,040 acres of conservation lands, 123,210 acres of nonconservation lands, and approximately 9 million acres of sovereign submerged lands.[3]

Chapter 253, F.S., relating to state lands, was the original authorizing statute for land acquisition and management by the state that it applies to both nonconservation and conservation lands.[4] Over the years, the Legislature created various conservation land acquisition programs and provided additional statutory authorization and requirements for land acquisition. Land management was included in chapter 259, F.S., relating to land acquisitions for conservation or recreation.[5] Currently, both chapters 253 and 259, F.S., are required to be referenced for a

[1] FLA. CONST. art. IV, s. 4.
[2] Section 253.001, F.S.
[3] Email from Andrew Ketchel, Director, Office of Legislative Affairs, Florida Department of Environmental Protection (Feb. 5, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).
[4] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[5] *Id*.

complete understanding of the land acquisition, management, and surplus processes for state-owned lands.[6]

Acquisition of State Lands

When the state acquires land, the acquisition agency is required to follow the procedures in s. 253.025, F.S., and, additionally, when acquiring conservation lands, the procedures in s. 259.041, F.S. Before any state agency initiates land acquisition, except purchases of property for transportation facilities and corridors or property for borrow pits for road building purposes, the agency is required to coordinate with the Division of State Lands (division) within the DEP to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed.[7] Only if no existing suitable state-owned land exists, then the state agency may proceed with the acquisition of the land.[8]

The acquisition statutes require state agencies to follow specific acquisition requirements relating to:

- Marketability of title.
- Appraisal maps and surveys.
- Appraisal reports.
- Maximum offers.
- Negotiations.
- Purchase instruments.
- Closing.
- Joint acquisitions.[9]

When a state agency is acquiring conservation lands, the board is authorized:

- By a majority vote of all its members, direct the department to exercise the power of eminent domain to acquire any properties on the acquisition list approved by the board if:
  - The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached; and
  - The land is of special importance to the state because of one or more of the following reasons:
    - It involves an endangered or natural resource and is in imminent danger of development.
    - It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
    - The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.10

[6] *Id*.
[7] Section 253.025(2), F.S.
[8] *Id*.
[9] Sections 253.025 and 259.041, F.S.; Fla. Admin. Code Ch. 18-1.
[10] Section 259.041(14), F.S.

- By an affirmative vote of at least three of its members, direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of lands that:
  - Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
  - Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
  - Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.[11]

Additionally, agreements to acquire real property for the purposes described in chapter 259, F.S., relating to land acquisitions for conservation or recreation, chapter 260, F.S., relating to the Florida Greenways and Trails Act, or chapter 375, F.S., relating to outdoor recreation and conservation lands, title to which will vest in the board, may not bind the state until the agreement is reviewed and approved by the department.[12] Additional approval by the board is required if:

- The purchase price agreed to by the seller exceeds the maximum value as authorized by law;
- The contract price agreed upon exceeds $1 million;
- The acquisition is the initial purchase in a Florida Forever project; or
- The purchase involves other conditions established by the board.[13]

If such approval by the board is required then the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project.[14] Such review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with the program.[15]

If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement is required to be submitted to and approved by the Legislative Budget Commission.[16]

Alternatives to fee simple acquisitions

In recognition of the increasing pressures on the natural areas of the state and on open space suitable for recreational use, the Legislature has encouraged the state's conservation and recreational land acquisition agencies to develop creative techniques to maximize the use of acquisition and management funds to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques.[17] The Legislature has declared that the use of alternatives to fee simple acquisition techniques by public land acquisition agencies achieves the following public policy goals:

[11] Section 259.041(15), F.S.
[12] Section 259.041(3), F.S.
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] Section 259.041(11)(a), F.S.

- Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.
- Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.
- Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.[18]

The term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals.[19]

When developing the acquisition plan, the Acquisition and Restoration Council (ARC) is authorized to give preference to those less than fee simple acquisitions that provide any public access.[20]

Management of State Lands

The Board of the Internal Improvement Trust Fund (board) is charged with the management, control, supervision, conservation, and protection of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions.[21] The board is authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess such lands for the benefit of the state.[22]

Nonconservation Lands

Each manager of nonconservation lands is required to submit to the division a land use plan at least every 10 years in a form and manner prescribed by rule by the board.[23] The division shall review each plan for compliance.[24] All land use plans, whether for single-use or multiple-use properties, must include an analysis of the property to determine if any significant natural or cultural resources are located on the property.[25] Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.[26] If such resources occur on the property, the manager is required to consult with the division and other appropriate agencies to develop management strategies to protect such resources.[27]

[18] Section 259.041(11)(a), F.S.
[19] Section 259.041(11)(b), F.S.
[20] Section 259.041(11)(c), F.S.
[21] Section 253.03, F.S.
[22] Section 253.03(2), F.S.
[23] Section 253.034(5), F.S.
[24] *Id*.
[25] *Id*.
[26] *Id*.
[27] *Id*.

Land use plans must also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination.[28] Land use plans submitted by a manager must include reference to the appropriate statutory authority for such use or uses and conform to the appropriate policies and guidelines of the state land management plan.[29]

Conservation Lands

Article X, section 18 of the Florida Constitution requires that "the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state…"[30] Section 253.034, F.S., specifies that state lands acquired pursuant to chapter 259, F.S., are required to be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future.[31] Additionally, all lands acquired and managed under chapter 259, F.S., are required to be managed in a manner that provides the greatest combination of benefits to the public and to the resources, for public outdoor recreation which is compatible with the conservation and protection of public lands, and for the purposes for which the lands were acquired.[32]

Each manager of conservation lands is required to submit a land management plan to the division at least every 10 years.[33] The land management plan must contain, at a minimum, all of the following elements:

- A physical description of the land.
- A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features.
- A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives.
- A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities.
- A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. [34] The summary budget is required to be prepared in such a manner that it facilitates computing an

[28] *Id*.
[29] *Id*.
[30] FLA. CONST. art. X, s. 18.
[31] Section 253.034(5)(a), F.S.
[32] Section 259.032(7), F.S.; s. 259.032(7)(b), F.S., provides that "such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired."
[33] Section 253.034(5), F.S.
[34] Section 253.034(5)(c), F.S.

aggregate of land management costs for all state-managed lands using the following categories:
- Resource management;
- Administration;
- Support;
- Capital improvements;
- Recreation visitor services; and
- Law enforcement activities.[35]

Each land management plan is required to provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.[36] Short-term goals are required to be achievable within a two-year planning period, and long-term goals are required to be achievable within a 10-year planning period.[37] These short-term and long-term management goals are the basis for all subsequent land management activities.[38]

Short-term and long-term management goals must include measurable objectives for the following, as appropriate:
- Habitat restoration and improvement.
- Public access and recreational opportunities.
- Hydrological preservation and restoration.
- Sustainable forest management.
- Exotic and invasive species maintenance and control.
- Capital facilities and infrastructure.
- Cultural and historical resources.
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.[39]

Land management plans are required to be updated every 10 years on a rotating basis.[40] Each manager of conservation lands is required to update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within one year of the addition of significant new lands.[41]

Regional land management review teams are required to evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features, and the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.[42]

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[35] Section 259.037(3), F.S.
[36] Section 253.034(5)(a), F.S.
[37] *Id*.
[38] *Id*.
[39] Section 253.034(5)(b), F.S.
[40] Section 253.034(5)(e), F.S.
[41] Section 253.034(5), F.S.
[42] Section 259.036(3), F.S.

If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department is required to provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.[43] The manager of the land is required to consider the findings and recommendations of the land management review team in finalizing the 10-year update of the land management plan.[44]

By July 1 of each year, each governmental agency and each private entity designated to manage lands is required to report to the department on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.[45] The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.[46]

Sovereignty Submerged Lands

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only when not contrary to the public interest.[47] The board is required to encourage the use of sovereignty submerged lands for water-dependent uses and public access.[48] The term "water-dependent activity" is defined as "an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty submerged lands is an integral part of the activity."[49]

Activities on sovereignty submerged lands are limited to water-dependent activities, unless the board determines that it is in the public interest on a case-by-case basis to authorize an exception.[50] Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

- Located in areas along seawalls or other non-natural shorelines;

[43] Section 253.036(5), F.S.
[44] Section 259.036(2), F.S.
[45] Section 259.032(8), F.S.
[46] Section 253.034(5)(h), F.S.
[47] Fla. Admin. Code R 18-21.003(51), defines the term "public interest" as a "demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action."
[48] Section 253.03(15), F.S.; Fla. Admin. Code R. 18-21.003(61), defines the term "sovereignty submerged lands" to mean "those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3. 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated."
[49] Fla. Admin. Code R. 18-21.003(71); Fla. Admin. Code R. 18-21.003(2), defines the term "activity" as "any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel, or shell, and the removal or planting of vegetation on sovereignty lands."
[50] Fla. Admin. Code R. 18-21.004(1)(g).

- Located outside of aquatic preserves or Class II waters;[51] and
- The use is incidental to the basic purpose of the project, and constitutes only minor nearshore encroachments on sovereign lands.[52]

Disposition of State Lands

Surplus

The board determines which lands it holds title to may be surplused.[53] Since 2000, approximately 3,041 acres of conservation lands have been declared surplus and disposed, raising $14,438,157 in revenue.[54] Conservation lands may only be surplused if the board, by an affirmative vote of at least three members, determines that the lands are no longer needed for conservation purposes.[55] The board may dispose of all other lands if the board, by an affirmative vote of at least three members, determines whether the lands are no longer needed.[56]

Requests for surplusing lands may be made by any public or private entity or person.[57] All requests are required to be submitted to the lead managing agency for review and recommendation to the ARC.[58] Before any decision by the board to surplus lands, the ARC is required to review and make recommendations to the board concerning the request.[59] The ARC is required to determine whether the request is compatible with the resource values of and management objectives for such lands.[60]

County or local government requests for surplus lands are expedited throughout the surplusing process.[61] A decision to surplus state-owned nonconservation lands to a county or local government may be made by the board without a review of, or recommendation on, the request from the ARC or the division.[62] The board is required to consider such requests within 60 days of the board's receipt of the request.[63] A decision to surplus state-owned conservation lands is subject to review of, and recommendation on, the request by the ARC.[64] The board is required to consider such requests within 120 days of the board's receipt of the request.[65] Additionally, local governments may request that state lands be specifically declared surplus lands for the purpose

[51] Generally, Class II waters are coastal waters where shellfish harvesting occurs.
[52] *Id*.
[53] Section 253.034(6), F.S.
[54] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[55] FLA. CONST. art. X, s. 18.
[56] Section 253.034(6), F.S.
[57] Section 253.034(6)(j), F.S.
[58] *Id*.
[59] Section 253.034(6)(e), F.S.
[60] Section 253.034(6), F.S.
[61] Section 253.0341, F.S.
[62] Section 253.0341(1), F.S.
[63] *Id*.
[64] Section 253.0341(2), F.S.
[65] *Id*.

of providing alternative water supply and water resource development projects; public facilities such as schools, fire, and police facilities; and affordable housing.[66]

Before a building or a parcel of land is offered for sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions.[67] The state university or college has 60 days after receipt of the offer to submit a plan for review and approval by the board regarding the intended use, including future use, of the parcel of land before approval of the lease. The board is required to compare the estimated value of the parcel to any submitted business plan to determine if the sale is in the best interest of the state.[68]

Additionally, the board may not sell any land to which it holds title unless and until it affords an opportunity to the county in which such land is situated.[69] The board is required to notify the applicable board of county commissioners that land is available in the county. The board of county commissioners has 45 days to submit a certified copy of a resolution providing the determination of whether or not it proposes to acquire the available land. If the board timely receives the resolution then the board is required to convey to the county the land at a price that is equal to its appraised market value, subject to terms and conditions as determined by the board. These notification requirements do not apply to any land exchanged by the board; the conveyance of lands located within the Everglades Agricultural Area; or lands managed pursuant to ss. 253.781-253.785, F.S., relating to state lands along the route of the former Cross Florida Barge Canal, the Cross Florida Greenways, or around Lake Rousseau.[70]

At least every 10 years, as a component of each land management plan or land use plan, each manager is required to evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased.[71] For conservation lands, the ARC is required to review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[72] For nonconservation lands, the division is required to review the lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.[73] Lands that are owned by the board but which are not actively managed by any state agency or for which a land management plan has not been completed are required to be reviewed by the ARC for its recommendation as to whether such lands should be disposed.[74]

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[66] Section 253.0341(3), F.S.; s. 373.019(24), F.S., defines the term "water resource development" as "the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities."
[67] Section 253.034(6), F.S.
[68] Section 253.034(13), F.S.
[69] Section 253.111, F.S.
[70] Section 253.111(6), F.S.
[71] Section 253.034(6)(c), F.S.
[72] *Id*.
[73] *Id*.
[74] Section 253.034(6)(d), F.S.

In reviewing lands owned by the board, the ARC is required to consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located and recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interest of the state and local government.[75] Such lands are required to be offered to the local government for a period of 45 days and the permitted uses for such lands include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing.[76]

Exchange

Section 253.42, F.S., authorizes the board to exchange state lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations. The board is authorized to make and enter into contracts or agreements for the purposes of such exchanges and to fix the terms and conditions of any such exchange.[77] In the case of a land exchange involving the disposition of conservation lands, the board is required to determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit.[78] The board is required to select and agree upon the state lands to be exchanged and the lands to be conveyed to the state.[79]

Water Management Districts Sale or Exchange of Lands

Sections 373.056 and 373.089, F.S., establish the manner in which water management districts may dispose of lands, interests, or rights in lands. Before lands, interests, or rights in lands are disposed, the governing board of a water management district must determine that the parcel of land is no longer needed. Surplus lands may be offered for public bid and sold pursuant to s. 373.089, F.S., conveyed by a district to another governmental entity pursuant to s. 373.056, F.S., or used in potential real estate exchange transactions.

The governing board of a water management district may sell surplus lands at any time.[80] The disposal of surplus lands requires a majority vote of the governing board. The disposal of surplus lands that were acquired for conservation purposes requires a determination that the lands are no longer needed for conservation purposes and a two-thirds vote of the governing board.

Before selling surplus lands, a district must publish a notice of intention to sell, which includes a description of the lands to be offered for sale, in a newspaper circulated in the county in which

[75] Section 253.034(6)(f), F.S.
[76] Section 253.034(6)(f), F.S.
[77] Section 253.42, F.S.
[78] Section 253.034(6), F.S.; Fla. Admin. Code R. 18-2.017(38), defines the term "net positive benefit" to mean "any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset and request use or activity which would preclude or affect, in whole or in part, current or future uses of natural resource land that are managed primarily for the conservation and protection of natural, historical, or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical, or recreational benefits, as applicable, to the affected management unit."
[79] Section 253.42(3), F.S.
[80] Section 373.089, F.S.

the land is located once each week for three consecutive weeks. The first publication being not less than 30 days nor more than 45 days before any sale. Surplus lands must be sold for the highest price obtainable, which may not be less than the appraised value of the lands as determined by a certified appraisal obtained within 120 days before the sale.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

In 2010, the Legislature directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district.[81] In order to meet the requirement, the department in coordination with the Department of Management Services developed FL-SOLARIS to record and maintain inventory of real estate properties that are "owned, leased, or rented, or otherwise occupied" by any state government entity. The database includes all state-owned lands in which the state has a fee interest, including conservation easements acquired through a formal acquisition process for conservation.[82]

Florida Forever Program

The Florida Forever program was created in 1999 as the successor program to the Preservation 2000 program. The stated goals of the Florida Forever program are to acquire lands and water areas to preserve natural resources and protect water supply, provide opportunities for agricultural activities on working lands, provide outdoor recreational opportunities, preserve the Everglades, prioritize land acquisition process based on science-based assessments of the natural resources, and enhance imperiled species management.[83]

The Acquisition and Restoration Council (ARC) is responsible for evaluating, selecting, and ranking state land acquisition projects under the Florida Forever program.[84] The ARC is a 10-member group composed of:

- Four members appointed by the Governor, three from a scientific discipline related to land, water, or environmental science, and one with at least five years of experience in managing lands for both active and passive types of recreation;
- Four members as follows:
  - The secretary of the Department of Environmental Protection;
  - The director of the Florida Forest Service of the Department of Agriculture and Consumer Services;
  - The executive director of the Fish and Wildlife Conservation Commission;
  - The director of the Division of Historical Resources within the Department of State;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- One member appointed by the Commissioner of Agriculture.[85]

[81] Section 216.0153, F.S.
[82] DEP, *FL-SOLARIS, Background Information*, http://www.dep.state.fl.us/lands/fl_solaris_background.htm (last visited Feb. 5, 2016).
[83] Section 259.105, F.S.
[84] *Id*.
[85] Section 259.035, F.S.

Projects or acquisitions funded through Florida Forever are evaluated and reviewed by the ARC, which determines if a proposed project meets at least two of the following goals:

- Enhances the coordination and completion of land acquisition projects.
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels.
- Protects, restores, and maintains the quality and natural functions of land, water, and wetland systems of the state.
- Ensures that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
- Increases natural resource-based public recreational and educational opportunities.
- Preserves significant archaeological or historic sites.
- Increases the amount of forestland available for sustainable management of natural resources.
- Increases the amount of open space available in urban areas.[86]

The goals are evaluated in accordance with specific criteria and numeric performance measures developed by rule.[87] This criteria is used to competitively evaluate, select, and rank projects eligible for Florida Forever funds. The ARC is required to give weight to the following criteria:

- The project meets multiple goals.
- The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.
- The project enhances or facilitates management of properties already under public ownership.
- The project has significant archaeological or historic value.
- The project has funding sources that are identified and assured through at least the first two years of the project.
- The project contributes to the solution of water resource problems on a regional basis.
- The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.
- The project implements an element from a plan developed by an ecosystem management team.
- The project is one of the components of the Everglades restoration effort.
- The project may be purchased at 80 percent of appraised value.
- The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.

[86] Section 259.105(4), F.S.

[87] Section 259.035(4)(a), F.S.; ch. 2015-229, s. 21, Laws. of Fla., requires the ARC to develop rules, by December 1, 2016, defining specific criteria and numeric performance measures needed for lands that are acquired under the Florida Forever program or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules are required to be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature is authorized to reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented.

- The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.[88]

Each year the division prepares an annual work plan prioritizing projects on the Florida Forever list by category: a critical lands category; a partnerships or regional incentives category; a substantially complete category; a climate-change category; and a less-than-fee category.[89] After at least one public hearing, the ARC may adopt the work plan. A copy of the work plan is required to be provided to the board by October 1 of each year.[90]

Lands acquired for conservation and recreation purposes are to be used as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or non-state entities.[91] Additionally, conservation lands acquired pursuant to the Florida Forever program or other state-funded conservation land purchase programs are authorized, upon a finding by the board, for use as water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if:

- The proposed use is consistent with the management plan for such lands;
- The proposed use is compatible with the natural ecosystem and resource values of such lands;
- The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;
- The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and
- The proposed use is consistent with the public interest.[92]

III. Effect of Proposed Changes:

Acquisition Procedures

The bill amends s. 253.025, F.S., relating to the acquisition of state lands for purposes other than preservation, conservation, and recreation. The bill repeals s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes, to consolidate the acquisition procedures for all state lands, whether or not they were acquired for conservation, preservation, or recreation purposes.

The following provisions applied only to conservation lands under s. 259.041, F.S., but were moved to s. 253.025, F.S., and will apply to all state lands under the bill:

[88] Section 259.105(9), F.S.
[89] Section 259.105(17), F.S.
[90] *Id*.
[91] Section 259.032(3), F.S.
[92] Section 253.034(10), F.S.

- The authority to waive the acquisition requirements under statute or rule, except under specified circumstances, and substitute other reasonably prudent procedures if the public's interest is reasonably protected.
- The requirement that if the purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board or if the contract price agreed to by the seller and the acquiring agency exceeds $1 million, the agreement must be submitted to and approved by the Board of Trustees of the Internal Improvement Trust Fund (board). If the board's approval is required, the acquiring agency must provide justification as to why it is in the public's interest to acquire the parcel.
- The authority to obtain a third appraisal if the first two appraisals exceed $1 million and differ significantly.
- The requirement that the agency proposing the acquisition must pay associated costs in addition to appraisal fees. Currently, acquiring agencies are not expressly required to pay associated costs when acquiring nonconservation lands.
- The authority to release an appraisal report for nonconservation lands when the acquiring agency has terminated negotiations.
- The prohibition against the maximum value of a parcel to be purchased by the board, as determined by the highest approved appraisal or pursuant to the rules of the board, increasing or decreasing as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within one year after the date the Department of Environmental Protection (DEP or department) or the board approves the contract to purchase the parcel.
- The authority of the secretary of the department or the director of the Division of State Lands (division) to waive the appraisal requirements and to enter into an option agreement to buy a parcel of land before appraisal of the parcel of land.
- The authority to contract for additional real estate acquisition services including, surveying, mapping, environmental audits, title work, and legal and other professional assistance for reviewing acquisition agreements and other documents and to perform acquisition closings.

The following provisions were moved from s. 259.041, F.S., to s. 253.025, F.S., with no effect:

- The rulemaking authority of the board relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes.
- The eminent domain authority to acquire any conservation parcel identified on the Florida Forever acquisition list established by the Acquisition Restoration Council (ARC) and approved by the board.
- The authority of the board, by an affirmative vote of at least three members, to direct the DEP to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department under the Florida Forever program for the acquisition of certain lands.
- The provision providing that title to lands that are to be jointly held by the board and a water management district when acquired by a water management district are deemed to meet the standards necessary for ownership by the board.

Additionally, the bill makes the following changes:

- Authorizes the division to use an appraisal prepared by the division to estimate the value of a parcel that is estimated to be worth $100,000 or less, if the director of the division finds that the cost of an outside appraisal is not justified and provided the public's interest is reasonably protected.

- Removes the board's ability to designate a qualified fee appraiser organization.
- Changes a reference to the Division of Business and Professional Regulation to the Department of Agriculture and Consumer Services as land surveyors are regulated by the latter rather than the former.
- Revises the definition of the term "nonprofit organization," relating to organizations that may provide an appraisal to the division, to include nonprofit organizations whose purpose includes the preservation of natural resources for the purposes of the acquisition of conservation lands, rather than nonprofit organizations whose purpose is the preservation of natural resources.
- Authorizes, rather than requires, the department to use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

The bill amends s. 253.031, F.S., to remove the requirement that the board keep records and papers at the U.S. Land Office in Gainesville, Florida. All documents are now held in Tallahassee as required by law.[93]

Alternatives to Fee Simple Acquisition

The bill creates s. 253.0251, F.S., to relocate subsection 259.041(11), F.S., relating to alternatives to fee simple acquisitions. The bill adds the Department of Agriculture and Consumer Services (DACS) to the list of entities that are required to implement the use of alternatives to fee simple acquisitions and to educate private landowners about such alternatives and that may enter into joint acquisition agreements for alternatives to fee simple acquisitions. Additionally, the bill deletes s. 259.101(7), F.S., the language of which closely mirrors s. 259.041(11), F.S., but applied to acquisitions under the Preservation 2000 program.

The bill creates s. 570.715, F.S., to require DACS to follow certain acquisition procedures when acquiring conservation easements or less-than-fee interests through the Rural and Family Lands Protection Program pursuant to s. 570.71, F.S. The procedures closely mirror the acquisition procedures required under s. 253.025, F.S. The bill transfers and redesignates the public records exemption for appraisals from s. 259.041(7)(e), F.S., to s. 570.715(5), F.S.

Management Requirements

The bill amends s. 253.03, F.S., to update a reference to a repealed rule that grandfathered-in certain structures to use sovereignty submerged lands. The bill requires the board to encourage the use of sovereignty submerged lands for minimal secondary non-water dependent uses that are related to water-dependent uses.

The bill amends s. 253.034, F.S., to authorize the department, if the managing or leasing entity is not meeting the short-term goals as provided in the applicable land management plan, to submit conservation lands to ARC to review whether the short-term goals should be modified, consider whether the lands should be offered to another entity for management or leasing, or recommend to the board whether to surplus the lands. The bill authorizes the department, if the managing or

[93] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

leasing entity is not meeting the short-term goals as provided in the applicable land use plan, to submit nonconservation lands to the board to consider whether to require the managing or leasing entity to release its interest in the land and to consider whether to surplus the lands. The planning period for short-term goals in a land management plan is two years and the planning period for short-term goals in a land use plan is five years.

The bill amends s. 253.034(5), F.S., to:

- Require that each updated land management plan identify any conservation lands under the plan, in part or in whole, which are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.
- Require that all state nonconservation lands be managed to provide the greatest benefit to the state and that any use or possession of nonconservation lands which is not in accordance with an approved land use plan is subject to termination by the board.
- Authorize nonconservation lands to be grouped by similar land use types under one land use plan.
- Require each land use plan to contain, at a minimum, all of the following elements:
  - A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources, as opposed to an analysis of the property to determine if any significant natural or cultural resources are located on the property as required under current law;
  - A desired development outcome;
  - A schedule for achieving the desired development outcome;
  - A description of both short-term (achievable within a five-year planning period) and long-term (achievable within a 10-year planning period) development goals;
  - A management and control plan for invasive nonnative plants;
  - A management and control plan for soil erosion and soil and water contamination, as opposed to providing for the conservation of soil and water resources as required under current law; and
  - Measureable objectives to achieve the goals identified in the land use plan.
- Remove the specification that natural or cultural resources includes archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features.
- Provide clarification by adding references to state conservation lands or nonconservation lands where appropriate.
- Remove duplicative language relating to the authority of the secretary of the department, the Commissioner of Agriculture, or the Executive Director of the Fish and Wildlife Conservation Commission to submit a land management plan to the board, if the ARC fails to make a recommendation for the plan.

The bill amends s. 253.7821, F.S., to assign the Cross Florida Greenways State Recreation and Conservation Area to the department, rather than the Office of Greenways Management.

The bill amends s. 259.032, F.S., relating to conservation and recreation lands to:

- Remove the requirement that outdoor activities related to recreation which are authorized be compatible with the purposes for which the lands were acquired.

- Remove the requirement that conservation lands be managed for the purposes for which the lands were acquired.
- Require the board to evaluate and amend the management policy statement for a project to ensure that the policy statement is compatible with conservation and/or recreation rather than consistent with the purposes for which the lands are acquired.
- Remove obsolete language relating to the land management plan for the Babcock Crescent B Ranch, as the land management plan has been created.
- Revise the requirements for individual management plans by:
  - Removing the requirement that the priority schedules for conducting management activities be based on the purposes for which the lands were acquired; and
  - Requiring the determination of the public uses and public access to be compatible with conservation and/or recreation rather than consistent with the purposes for which the lands were acquired.
- Revise the legislative intent that conservation lands be managed and maintained in a manner that is compatible with conservation and/or recreation consistent with the land management plan rather than for the purposes for which the lands were acquired and the requirement that public access and use be consistent with acquisition purposes.
- Conform cross-references.

The bill amends s. 259.035, F.S., to clarify that the ARC provides assistance to the board in reviewing the recommendations and plans for state-owned conservation lands. The ARC does not provide the board with assistance relating to plans for state-owned nonconservation lands.

The bill amends s. 259.036, F.S., relating to the requirements of management review teams to:
- Require the review teams to determine whether conservation, preservation, and recreation lands titled in the name of the board are managed for purposes that are compatible with conservation, preservation, or recreation in accordance with the applicable land management plan, rather than for the purposes for which they were acquired.
- Revise the composition of regional land management review teams to provide a preference for private land managers from the local community and to authorize a member or staff of the jurisdictional water management district to be on the team instead of a member or staff of the local soil and water conservation district board of supervisors.
- Change references from the division to the department.

The bill amends s. 259.037, F.S., to provide an acronym for the Land Management Uniform Accounting Council (LMUAC) and remove the director of the Office of Greenways and Trails from the council.

Under s. 259.047, F.S., a state or acquiring entity is required to make reasonable efforts to keep lands in agricultural production which were in agricultural production at the time of acquisition, where consistent with the purposes for which the property was acquired. The bill amends the language to state if consistent with the purposes of conservation or recreation.

The bill amends s. 259.101, F.S., to revise the language related to the incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation purposes rather than compatible with the purposes

for which such lands were acquired. The bill removes the language relating to alternatives to fee simple acquisition under this section. This language closely mirrors the authorization for alternatives to fee simple acquisitions under the Florida Forever program, which was moved to a new section. The bill conforms cross-references.

Disposition Procedures

The bill amends s. 253.0341, F.S., to include the provisions from s. 253.034(6) and (13), F.S., to provide one section of law that encompasses the surplus requirements for state lands. The bill:

- Removes authorization for local governments to submit surplusing requests directly to the board.
- Removes authorization for the board to decide to surplus nonconservation lands without a review of, or a recommendation on, the request from the ARC or the division.
- Requires all requests to surplus conservation lands to be submitted to the lead managing agency for review and recommendation to the ARC, and all requests to surplus nonconservation lands to be submitted to the division for review and recommendation to the board.
- Under current law, surplusing requests for nonconservation lands by a county or local government were required to be considered by the board within 60 days of the board's receipt of the request. Surplus requests by a county or local government to surplus conservation lands were required to be considered by the board within 120 days of the board's receipt of the request. The bill applies the 60-day review requirement to all requests, not just from a county or local government, and to requests to surplus conservation lands.
- Removes the requirement that a facility or parcel before such facility or parcel is offered for lease or sale be first offered for lease to a state university or Florida College System institution. The requirement is retained for state agencies but is restricted to only apply when a facility or parcel is offered for lease and clarifies that the requirement only applies to nonconservation lands. Additionally, the bill revises the deadline for state agencies to request to lease such facility or parcel from 60 days after the offer for lease to 45 days after. The bill also changes the term from "building" to "facility" to include all possible structures on the parcel.
- Removes language that requires ARC to consider whether lands owned by the board are more appropriately owned or managed by the local government in which the land is located if in the best interests of the state and the local government.
- Clarifies the requirement that the ARC review and make recommendations on requests for surplus lands only applies to conservation lands.
- Removes language relating to the conveyance of title to property on which the Graham Building is located to Miami-Dade County. The conveyance has been executed.
- Removes the authorization for local governments to request that state lands be specifically declared surplus for the purpose of providing alternative water supply and water resource development projects, public facilities, and affordable housing.
- Removes examples of permittable uses of land surplused under certain circumstances to a state, county, or local government.

The bill amends s. 253.111, F.S., to remove the requirement that the board, before it is authorized to sell any land to which it holds title, must provide notice and afford an opportunity

to a county in which the land is situated to receive such lands before the board is authorized to sell such land.

The bill amends s. 253.42, F.S., relating to the exchange of lands, to remove the requirement that any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government so long as the use proposed by the county or local government is for a public purpose. The bill creates a new process that authorizes a person who owns land contiguous to state-owned lands to submit a request to the division to exchange all or a portion of the privately owned land for all or a portion of the state-owned land. Under such exchange, the state would retain a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. The bill requires the division, if the division elects to proceed with a request, to submit the request to the ARC for review, in which case the ARC is required to provide recommendations to the division. The division is required to review the request and the ARC's recommendations and may provide recommendations to the board. The bill authorizes the board to approve the request if:

- At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
- The approval does not result in a violation of the terms of a preexisting lease or agreement by the board, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
- For state-owned land purchased for conservation purposes, the board makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.
- The approval does not conflict with any existing flowage easement.
- The request is approved by three or more members of the board of trustees.

The bill specifies that state-owned sovereign submerged land is not authorized for this type of exchange and that special consideration is required to be given to requests that maintain public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board. The bill provides that a person who maintains public access on such lands is entitled to a limitation on liability. The bill requires that any land subject to a permanent conservation easement granted under this process is subject to inspection by the department to ensure compliance with the terms of the permanent conservation easement.

The bill amends s. 253.782, F.S., to remove the directive requiring the department to retain ownership of and maintain all lands or interests in land owned by the board, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

The bill amends s. 373.089, F.S., and:

- Extends the timeframe in which a certified appraisal must be obtained for determining the minimum price at which the land may be sold by a water management district (WMD) from 120 days to 360 days before the effective date of a contract for the sale; and

- Revises the period from which the first publication of the required notice must occur to not more than 360 days before any sale, rather than 45 days; and provide an expedited process for the sale of surplus lands titled to a WMD and valued at $25,000 or less.

Under the expedited process, instead of requiring a WMD to publish a notice of intention to sell in a newspaper circulated in the county in which a parcel of land valued at $25,000 or less is situated for three consecutive weeks, the bill requires a governing board to publish the notice of intention to sell one time only. Additionally, the governing board is required to send notice to adjacent property owners by certified mail and publish the notice on its website. Fourteen days after publication of such notice, the bill authorizes a water management district to sell such a parcel to an adjacent property owner or accept sealed bids if there are two or more owners of adjacent property and sell the parcel to the highest bidder. Thirty days after publication of such notice, the bill authorizes a water management district to accept sealed bids and sell such a parcel to the highest bidder.

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill creates s. 253.87, F.S., to require the DEP to expand the scope of the FL-SOLARIS database as follows:

- By July 1, 2018, that the database include all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement.
- By July 1, 2018, and at least every five years thereafter, that counties and municipalities identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. If a municipality qualifies as a financially disadvantaged small community, it has until July 1, 2019, to complete this requirement.[94]
- Directs the DEP to add the lands on a list submitted by a county or municipality to the database within six months after receiving the list.
- Directs the DEP to update the database at least every five years.
- Authorizes the department to conduct a study on the technical and economic feasibility of including the following lands in the database or a similar public lands inventory:
    - All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres;
    - All publicly and privately owned lands for which development rights have been transferred;
    - All privately owned lands under a permanent conservation easement;
    - All lands owned by a nonprofit or nongovernmental organization for conservation purposes; and
    - All lands that are part of a mitigation bank.

[94] Section 403.1838, F.S., defines the term "financially disadvantaged small community as "a municipality that has a population of 10,000 or fewer, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce."

- Requires the DEP to submit a report regarding the study on the technical and economic feasibility of including such lands in the database to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

Florida Forever Program

The bill amends s. 259.01, F.S., to revise the short title for chapter 259, F.S., from the "Land Conservation Act of 1972" to the "Land Conservation Program."

The bill repeals s. 259.02, F.S., relating to the bonding authority for state capital projects for environmentally endangered lands up to $200 million and outdoor recreation lands up to $40 million. The bond issuance has been satisfied.[95]

The bill amends s. 259.105, F.S., to:

- Provide increased priority under Florida Forever for:
  Projects that can be acquired in less than fee ownership such as permanent conservation easements;
  - Projects that contribute to improving quality and quantity of surface water and groundwater; or
  - Projects that contribute to improving the water quality and flow of springs.
- Remove the requirement that where habitat or potentially restorable habitat for imperiled species is located on state lands, the short-term and long-term management goals included in the land management plan must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting the other uses identified in the management plan. This language was moved to s. 259.032(8)(c), F.S., but the requirement that the goals and objectives of imperiled species management plan be consistent with the purposes for which the land was acquired was removed.
- Requires that the rules adopted by the Department of Agriculture and Consumer Services concerning the application, acquisition, and project ranking process for conservation easements be consistent with the acquisition process provided for in s. 570.715, F.S, rather than s. 259.041, F.S.
- Clarify that an affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list.
- Remove legislative ratification requirements for rules that have been ratified and taken effect.
- Conform cross-references.

The bill amends s. 259.1052, F.S., to delete distribution requirements under Florida Forever relating to the Babcock Crescent B Ranch. This language is obsolete as the acquisition project is completed.

The bill amends ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S., to conform cross-references.

[95] DEP, *Senate Bill 1290 Agency Bill Analysis* (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

The bill appropriates the sums of $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the department and authorizes four full-time equivalent positions with associated salary rate of 182,968 to implement the amendments in this bill to ss. 253.034, F.S., along with s. 253.87, F.S.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires each county and municipality to submit to the DEP a list of all conservation lands owned in fee simple by the entity and lands on which the entity holds a permanent conservation easement. The bill may require counties and municipalities to take actions requiring the expenditure of funds. As a result, the county and municipality mandates provision of Article VII, section 18, of the Florida Constitution may apply. A law having an insignificant fiscal impact is exempt from the requirements of Article VII, section 18, of the Florida Constitution. The cost to counties and municipalities to identify and submit the list to the department is indeterminate at this time. If the cost will have an insignificant fiscal impact the exemption may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Disposition of State Lands

PCS/SB 1290 will have a significant fiscal impact on Department of Environmental Protection (DEP or department) related to the review of whether land managers have met their short-term and long-term goals for nonconservation lands and whether such lands should be offered for surplus. The DEP estimates the need for two additional full-time employees and a total cost of $280,784. These costs include a study to determine the

costs for updating the Integrated Land Management System and the Land Information Tracking System which is needed to implement the requirements of the bill. These costs are estimated to be between $100,000 and $150,000 (see chart on next page).[96]

Disposition of State Lands				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$110,000	-	$110,000
Expenses		$12,332	$7,764	$20,096
Contracted Services System Upgrades (range from $100,000 to $150,000)			$150,000	$150,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$123,020**	**$157,764**	**$280,784**

Florida State-Owned Lands and Records Information System (FL-SOLARIS)

The bill has a significant impact on the department by requiring that all federally owned conservation lands, lands on which the federal government holds a conservation easement, and all lands on which the state holds a conservation easement be included in the FL-SOLARIS. The additional costs total $1,635,784 and include:[97]

- For the federal conservation lands, federal conservation easements, and state conservation easements:
  - One full-time employee to produce the initial data, establish federal contacts to acquire data, and to maintain the system and data;
  - A recurring task order with the Florida Natural Areas Inventory to use its conservation managed land data; and
  - A new FL-SOLARIS Conservation Lands Module for the federal and state data to be designed, tested, and implemented before the data can be loaded.

- For the county and municipality conservation lands and easements:
  - Completion of a new FL-SOLARIS Conservation Lands Module; and

[96] DEP, Senate Bill 1290 Agency Bill Analysis (Rev. Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

[97] Id.

- One full-time employee to act as liaison to counties and municipalities to produce the initial data, assure compliance, quality control, and maintain the county and municipal conservation data in FL-SOLARIS.

The bill also requires the DEP to conduct a study and submit a report on the technical and economic feasibility of including lands within various criteria in FL-SOLARIS. The department estimates that this cost will be $500,000.[98]

FL-SOLARIS				
Category/Description	FTE	Recurring	Nonrecurring	Total Costs
Salaries and Benefits	2.0	$145,000	-	$145,000
Expenses		$12,332	$7,764	$20,096
Contracted Services/System Development and Maintenance*		$95,000	$855,000	$950,000
Contracted Services/ FNAI Data		$20,000	-	$20,000
Contacted Services Feasibility Study			$500,000	$500,000
Transfer to DMS-HR Services-Statewide Contract		$688	-	$688
Total	**2.0**	**$273,020**	**$1,362,764**	**$1,635,784**

The total costs for the additional duties and responsibilities related to the disposition of state lands and changes and expansion of the FL-SOLARIS are four full-time equivalent positions and $1,916,568.

The bill appropriates $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund to the Department of Environmental Protection and four full-time equivalent positions with associated salary rate of 182,968 to implement specific provisions of the bill.

The DEP can absorb rulemaking costs using existing resources.

The bill may have an indeterminate negative fiscal impact on counties and municipalities by requiring them to submit to the department a list of all conservation lands owned by the entity and lands on which the entity holds permanent conservation easement.

[98] *Id*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill moves language relating to alternatives to fee simple acquisitions from s. 259.041, F.S., to the newly created s. 253.0251, F.S. The requirement that each applicant within a project application must provide a statement as to why they are seeking full fee simple, rather than using an alternative to fee simple, was moved and revised under the bill to apply to all applications for alternatives to fee simple. With the revision, the language no longer makes sense, see lines 830-834. This provision should be reinstated to the original language and moved to s. 259.105, F.S., relating to the Florida Forever project application requirements.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.025, 253.03, 253.031, 253.034, 253.0341, 253.111, 253.42, 253.782, 253.7821, 259.01, 259.032, 259.035, 259.036, 259.037, 259.041, 259.047, 259.101, 259.105, 259.1052, 373.089, 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14.

This bill creates the following sections of the Florida Statutes: 253.0251, 253.87, 570.715.

This bill repeals section 259.02 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on General Government on February 24, 2016:
The committee substitute:

- Requires the Department of Agriculture and Consumer Services to implement initiatives for using alternatives to fee simple acquisitions; to educate private landowners about such alternatives; and to follow specified acquisition procedures when using such alternatives.
- Authorizes the Department of Environmental Protection to review whether the short-term goals stated in a land management plan should be modified when a leasing or managing entity is not meeting such goals.
- Clarifies that reviews of land management plans must include identification for surplusing purposes of any conservation lands that are no longer needed for conservation purposes, rather than identify conservation lands to surplus.
- Authorizes state nonconservation lands to be grouped by similar land use type under one land use plan.
- Removes language requiring the Division to conduct additional 10-year reviews of state-owned lands.

- Removes the priority provided to state universities and Florida College institutions to lease a facility or parcel of land that is being offered for lease or sale. State agencies retain this priority, but it is limited to when a facility or parcel is being offered for lease.
- Requires that ARC provide recommendations on each request to exchange interests in private land for adjacent public lands as authorized under the bill.
- Removes the requirement that the board, before they are authorized to sell any land to which they hold title, must provide notice and afford an opportunity to a county in which the land is situated to receive such lands before the board is authorized to sell such land.
- Removes the revision to the definition of the term "water resource development project."
- Makes revisions throughout the bill to require that conservation lands be managed for conservation and/or recreation, consistent with the land management plan.
- Revises the noticing requirements for a water management district when selling or exchanging lands and provides an expedited process for selling surplus lands that are valued at $25,000 or less.
- Adds an appropriation, positions, and salary rate.

B. Amendments:

None.

647570

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/24/2016	.	
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Appropriations Subcommittee on General Government (Simpson) recommended the following:

Senate Amendment (with title amendment)

Between lines 2983 and 2984
insert:

Section 24. Subsections (1), (3), and (7) of section 373.089, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired

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title or to which it may hereafter acquire title in the following manner:

(1) Any lands, or interests or rights in lands, determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands, or interests or rights in lands, as determined by a certified appraisal obtained within 360 ~~120~~ days before the effective date of a contract for sale.

(3) Before selling any surplus land, or interests or rights in land, it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which the land, or interests or rights in the land, is situated once each week for 3 successive weeks, ~~(~~three insertions being sufficient.~~),~~ The first publication of the required notice must occur at least ~~which shall be not less than~~ 30 days, but not ~~nor~~ more than 360 ~~45~~ days, before ~~prior to~~ any sale and must include~~, which notice shall set forth~~ a description of lands, or interests or rights in lands, to be offered for sale.

(7) Notwithstanding other provisions of this section, the governing board shall first offer title to lands acquired in whole or in part with Florida Forever funds which are determined to be no longer needed for conservation purposes to the Board of Trustees of the Internal Improvement Trust Fund unless the disposition of those lands is for the following purposes:

(a) Linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution

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facilities, public transportation corridors, and related appurtenances.

(b) The disposition of the fee interest in the land where a conservation easement is retained by the district to fulfill the conservation objectives for which the land was acquired.

(c) An exchange of the land for other lands that meet or exceed the conservation objectives for which the original land was acquired in accordance with subsection (4).

(d) To be used by a governmental entity for a public purpose.

(e) The portion of an overall purchase deemed surplus at the time of the acquisition.

(8) If a parcel of land is no longer essential or necessary for conservation purposes and is valued at $25,000 or less as determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the governing board may determine that the parcel of land is surplus. The notice of intention to sell must be published as required under subsection (3), one time only. The governing board shall send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website.

(a) Fourteen days after publication of such notice, the district may sell the parcel to an adjacent property owner or, if there are two or more owners of adjacent property, accept sealed bids and sell the parcel to the highest bidder or reject all offers.

(b) Thirty days after publication of such notice, the district shall accept sealed bids and may sell the parcel to the

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highest bidder or reject all offers.

If ~~In the event~~ the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete line 224

and insert:

Babcock Crescent B Ranch; amending s. 373.089, F.S.; extending the timeframe within which a certified appraisal may be obtained for parcels of land to be sold as surplus; providing an additional exception to the requirement that the governing board first offer title to certain lands; revising the procedures a water management district must follow for publishing a notice of intention to sell surplus lands; providing an exception from such notice requirements if a parcel of land is valued below a certain threshold; authorizing such parcels to be sold directly to the highest bidder; amending ss. 73.015,

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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Appropriations Subcommittee on General Government (Simpson) recommended the following:

Senate Substitute for Amendment (647570) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 253.025, Florida Statutes, is amended to read:

253.025 Acquisition of state lands ~~for purposes other than preservation, conservation, and recreation~~.—

(1)(a) ~~Neither~~ The Board of Trustees of the Internal

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Improvement Trust Fund or ~~nor~~ its duly authorized agent may not ~~shall~~ commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless ~~the provisions of~~ this section has ~~have~~ been fully complied with.

(b) Except for the requirements of subsections (4), (11), and (22), if the public's interest is reasonably protected, the board of trustees may:

1. Waive any requirements of this section.

2. Waive any rules adopted pursuant to this section, notwithstanding chapter 120.

3. Substitute other reasonably prudent procedures.

(c) ~~However,~~ The board of trustees may also substitute federally mandated acquisition procedures for the provisions of this section if ~~when~~ federal funds are available and will be used ~~utilized~~ for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(d) Notwithstanding ~~any provisions in~~ this section ~~to the contrary~~, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(e) The title to lands acquired pursuant to this section shall vest in the board of trustees pursuant to s. 253.03(1)

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unless otherwise provided by law, and all such titled lands shall be administered pursuant to s. 253.03.

(2) Before ~~Prior to~~ any state agency initiates ~~initiating~~ any land acquisition, except for ~~as pertains to~~ the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) The board of trustees is authorized to adopt rules to implement this section, including rules governing the terms and conditions of land purchases. The rules shall address, with specificity, but need not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents, and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest in acquiring.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(4) An agreement to acquire real property for the purposes described in this chapter, chapter 259, chapter 260, or chapter

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375, title to which will vest in the board of trustees, may not bind the state before the agreement is reviewed and approved by the Department of Environmental Protection as complying with this section and any rules adopted pursuant to this section. If any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and the acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a Florida Forever project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but are not limited to, Florida Forever projects when title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

If approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project. Approval of the board of trustees is also required for Florida Forever projects the department recommends acquiring pursuant to subsections (11) and (22). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department

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with this program. If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement shall be submitted to and approved by the Legislative Budget Commission.

(5) ~~(3)~~ Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(6) ~~(4)~~ For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(7) ~~(5)~~ Evidence of marketable title shall be provided by the landowner before ~~prior to~~ the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, if ~~where~~ the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.

(8) ~~(6)~~ Before approval by the board of trustees, or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 259, chapter 260, or chapter 375, and before ~~Prior to~~

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negotiations with the parcel owner to purchase any other land ~~pursuant to this section~~, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.

(b) ~~(a)~~ Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, if both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If ~~When~~ a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the division, or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

(c) ~~(b)~~ Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. ~~The board of trustees shall approve qualified fee appraisal organizations.~~ All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a ~~member of an approved appraisal organization or by a~~ state-certified appraiser. The board of trustees shall adopt rules for selecting individuals to perform appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, before ~~prior to~~

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contracting with the agency or a participant in a multiparty agreement, submit to the ~~that~~ agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(d) The fee appraiser and the review appraiser for the agency may not act in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition.

(e)~~(c)~~ The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the ~~Minimum Technical~~ Standards of Practice for Land Surveying in Florida published by the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time before ~~prior to~~ submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time before ~~prior to~~ conveyance of title to the parcel. ~~The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as~~

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~~negotiating with the property owner.~~

(f) ~~(d)~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The Department of Environmental Protection may disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. However, the private landowner must agree to maintain the confidentiality of the reports or information. ~~However,~~ The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the department ~~division~~ to purchase and hold property for subsequent resale to the board of trustees ~~division~~. In addition, the department ~~division~~ may use, as its own, appraisals obtained by a public agency or nonprofit organization, if ~~provided~~ the appraiser is selected from the department's ~~division's~~ list of appraisers and the appraisal is reviewed and approved by the department ~~division~~. For ~~the~~ purposes of this paragraph, the term "nonprofit organization" means an organization that ~~whose purpose is the preservation of natural resources, and which~~ is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and, for

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purposes of the acquisition of conservation lands, an organization whose purpose must include the preservation of natural resources. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(g) ~~(e)~~ Before ~~Prior to~~ acceptance of an appraisal, the agency shall submit a copy of such report to the division ~~of State Lands~~. The division shall review such report for compliance with the rules of the board ~~of trustees~~. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(h) ~~(f)~~ The appraisal report shall be accompanied by the sales history of the parcel for at least the previous ~~prior~~ 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or it is ~~its~~ cost prohibitive compared to the value of a parcel, the sales history may be waived by the board of trustees. The board of trustees shall adopt a rule specifying guidelines for waiver of a sales history.

(i) ~~(g)~~ The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(j)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. An offer by a state

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agency may not exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. For a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly pursuant to subparagraph 1.

3. This paragraph does not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

Notwithstanding this subsection, on behalf of the board of trustees and before the appraisal of parcels approved for purchase under this chapter or chapter 259, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees or, if applicable, the Secretary of Environmental Protection, and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate

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by the department of the value of the parcel, whichever amount is greater.

(9) ~~(7)~~ (a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, contracts for real estate commission fees, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the Department of Environmental Protection may use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

~~(e)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by~~

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~~state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.~~

~~2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.~~

~~3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.~~

(e) ~~(f)~~ When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f) ~~(g)~~ The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement is ~~shall~~ not ~~be~~ considered a part of the purchase price.

(g) ~~(h)~~ A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form

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and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Department of Environmental Protection ~~Division of State Lands~~ with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h) ~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of Environmental Protection ~~Division of State Lands~~ of the agreement for purchase and the required documentation, the board of trustees or, if ~~when~~ the purchase price does not exceed $100,000, its designee shall ~~either~~ reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(10) ~~(8)~~(a) A ~~No~~ dedication, gift, grant, or bequest of lands and appurtenances may not be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may

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not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state ~~either~~ in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(b) A ~~No~~ deed filed in the public records to donate lands to the board of trustees does not ~~of the Internal Improvement Trust Fund shall be construed to~~ transfer title to or vest title in the board of trustees unless ~~there shall also be filed in the public records,~~ a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands is also filed in the public records.

(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees may not be increased or decreased as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within 1 year after the date the Department of Environmental Protection or the board of trustees approves a contract to purchase the parcel.

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(11) Notwithstanding this section, the board of trustees, by an affirmative vote of at least three members, voting at a regularly scheduled and advertised meeting, may direct the Department of Environmental Protection to exercise the power of eminent domain pursuant to chapters 73 and 74 to acquire any conservation parcel identified on the acquisition list established by the Acquisition and Restoration Council and approved by the board of trustees pursuant to chapter 259. However, the board of trustees may only make such a vote under the following circumstances:

(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.

(b) The land is of special importance to the state because of one or more of the following reasons:

1. It involves an endangered or natural resource and is in imminent danger of development.

2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.

3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.

Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide that service. If the Department of Transportation or a water management district enters into such a contract with the

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department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.

(12) ~~(9)~~ Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. ~~The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.~~

(13) ~~(10)~~ The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(14) ~~(11)~~ The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days after ~~following~~ the board of trustees' final approval ~~by the board~~ of land acquisitions under this section. If an audit is conducted, the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House

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of Representatives, and their designees.

(15) ~~(12)~~ The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out ~~the purposes of~~ this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

(16) ~~(13)~~ (a) The board of trustees ~~of the Internal Improvement Trust Fund~~ may deed property to the Department of Agriculture and Consumer Services, so that the Department of Agriculture and Consumer Services is ~~department shall be~~ able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion does ~~shall~~ not apply to lands acquired for conservation purposes in accordance with s. 253.0341(1) or (2) ~~253.034(6)(a) or (b)~~.

(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of

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the sale shall be deposited ~~go~~ into the Department of Agriculture and Consumer Services Incidental Trust Fund. The Legislature may, at the request of the Department of Agriculture and Consumer Services ~~department~~, appropriate such money within the trust fund to the Department of Agriculture and Consumer Services ~~department~~ for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land from any sale, conveyance, exchange, trade, or transfer conducted pursuant to ~~as provided for in~~ this subsection shall be deposited into ~~placed within~~ the Department of Agriculture and Consumer Services ~~department's~~ Incidental Trust Fund.

(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. If ~~In the instance where~~ an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.

(17) ~~(14)~~ Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(18) ~~(15)~~ Pursuant to s. 944.10, the Department of Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state

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correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

(19)~~(16)~~ Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands, including any ~~the~~ cattle-dipping vats ~~vat~~.

(20)~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

(21)~~(18)~~ The board of trustees may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against encroachment.

(22) The board of trustees, by an affirmative vote of at

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least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

(23) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant

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to s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding this section or related rules.

Section 2. Section 253.0251, Florida Statutes, is created to read:

253.0251 Alternatives to fee simple acquisition.—

(1) The Legislature finds that:

(a) With the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds.

(b) The state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. In addition, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land,

when appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(2) All applications for alternatives to fee simple acquisition projects shall identify, within their acquisition plans, projects that require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For purposes of this section, the phrase "alternatives to fee simple acquisition" includes, but is not limited to, purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals listed in subsection (1). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this section shall

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be available for hunting in accordance with the management plan or hunting regulations adopted by the Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(3) When developing the acquisition plan pursuant to s. 259.105, the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less than fee simple acquisitions. Therefore, any proposed less than fee simple acquisition may not be rejected simply because public access would be limited.

(4) The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and each water management district shall implement initiatives for using alternatives to fee simple acquisition and to educate private landowners about such alternatives. The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(5) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

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(6) The public agency that has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

(7) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the acquisition procedures set forth in s. 570.715.

Section 3. Subsection (2), paragraph (c) of subsection (7), and subsections (11) and (15) of section 253.03, Florida Statutes, are amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(2) It is the intent of the Legislature that the board of trustees ~~of the Internal Improvement Trust Fund~~ continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The board of trustees ~~of the Internal Improvement Trust Fund~~ is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. ~~The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments,~~

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~~to be charged agencies that are leasing land from it. This annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.~~

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the state ~~of Florida~~ and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a listed structure ~~so listed~~ falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and ~~either~~ repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(11) The board of trustees ~~of the Internal Improvement Trust Fund~~ may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost

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to the board, for disclaimers, easements, exchanges, gifts, leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district. The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments to be charged to agencies that are leasing land from the board of trustees. This annual administrative fee assessed for all leases or similar instruments is to compensate the board of trustees for costs incurred in the administration and management of such leases or similar instruments.

(15) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall encourage the use of sovereign submerged lands for public access and water-dependent uses which may include related minimal secondary nonwater-dependent uses ~~and public access~~.

Section 4. Subsections (8) and (9) of section 253.031, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and present subsections (2) and (7) of that section are amended, to read:

253.031 Land office; custody of documents concerning land; moneys; plats.—

(2) The board ~~of trustees of the Internal Improvement Trust Fund~~ shall have custody of, and the department shall maintain, all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the

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public domain.

~~(7) The board shall receive all of the tract books, plats, and such records and papers heretofore kept in the United States Land Office at Gainesville, Alachua County, as may be surrendered by the Secretary of the Interior; and the board shall carefully and safely keep and preserve all of said tract books, plats, records, and papers as part of the public records of its office, and at any time allow any duly accredited authority of the United States, full and free access to any and all of such tract books, plats, records, and papers, and shall furnish any duly accredited authority of the United States with copies of any such records without charge.~~

Section 5. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state’s natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state’s lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust

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by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands. The Acquisition and Restoration Council ~~created in s. 259.035~~ shall recommend rules to the board of trustees, and the board of trustees shall adopt rules necessary to carry out the purposes of this section.

(2) As used in this section, the term ~~following phrases have the following meanings~~:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are used ~~utilized~~ in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers may ~~shall~~ not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary

buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using entity shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing entity.

(c) "Conservation lands" means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than

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conservation, outdoor resource-based recreation, or archaeological or historic preservation may ~~shall~~ not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that do not possess ~~no~~ significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

(d) "Public access," as used in this chapter and chapter 259, means access by the general public to state lands and water, including vessel access made possible by boat ramps, docks, and associated support facilities, where compatible with conservation and recreation objectives.

Lands acquired by the state as a gift, through donation, or by any other conveyance for which no consideration was paid, and which are not managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation under a land management plan approved by the board of trustees are not conservation lands.

(3) Recognizing that recreational trails purchased with rails-to-trails funds pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that if the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) A ~~No~~ management agreement, lease, or other instrument authorizing the use of lands owned by the board of trustees may not ~~of the Internal Improvement Trust Fund shall~~ be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the board of trustees ~~of the Internal Improvement Trust Fund~~ if the improvement is a transportation facility. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(b) for conservation lands, the Department of Environmental Protection may submit the lands to the Acquisition and Restoration Council to review whether the short-term goals should be modified, consider whether the lands

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should be offered to another entity for management or leasing, or recommend to the board of trustees whether to surplus the lands. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(i) for nonconservation lands, the department may submit the lands to the board of trustees to consider whether to require the managing or leasing entity to release its interest in the lands and to consider whether to surplus the lands. If the state-owned lands are determined to be surplus, the board of trustees may require an entity to release its interest in the lands. An entity managing or leasing state-owned lands from the board of trustees may not sublease such lands without prior review by the Division of State Lands and, for conservation lands, by the Acquisition and Restoration Council ~~created in s. 259.035~~. All management agreements, leases, or other instruments authorizing the use of lands owned by the board of trustees shall be reviewed for approval by the board of trustees or its designee. The council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each manager of conservation lands shall submit to the Division of State Lands a land management plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees and in accordance with ~~the provisions of~~ s. 259.032. Each manager of conservation lands shall also update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within 1 year after ~~of~~ the addition of significant new lands. Each manager of nonconservation lands shall submit to the Division of State

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Lands a land use plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees. The division shall review each plan for compliance with the requirements of this subsection and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. All nonconservation land use plans, whether for single-use or multiple-use properties, shall be managed to provide the greatest benefit to the state ~~include an analysis of the property to determine if any significant natural or cultural resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features. If such resources occur on the property, the manager shall consult with the Division of State Lands and other appropriate agencies to develop management strategies to protect such resources. Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan~~. Plans for managed areas larger than 1,000 acres shall contain an analysis of the multiple-use potential of the property~~,~~ which includes ~~analysis shall include~~ the potential of the property to generate revenues to enhance the management of the property. In addition ~~Additionally~~, the plan shall contain an analysis of the potential use of private land managers to

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facilitate the restoration or management of these lands. If ~~In those cases where~~ a newly acquired property has a valid conservation plan that was developed by a soil and conservation district, such plan shall be used to guide management of the property until a formal land use plan is completed.

(a) State conservation lands shall be managed to ensure the conservation of the state's plant and animal species and to ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future. Each land management plan for state conservation lands shall provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals. Short-term goals shall be achievable within a 2-year planning period, and long-term goals shall be achievable within a 10-year planning period. These short-term and long-term management goals shall be the basis for all subsequent land management activities.

(b) Short-term and long-term management goals for state conservation lands shall include measurable objectives for the following, as appropriate:

1. Habitat restoration and improvement.

2. Public access and recreational opportunities.

3. Hydrological preservation and restoration.

4. Sustainable forest management.

5. Exotic and invasive species maintenance and control.

6. Capital facilities and infrastructure.

7. Cultural and historical resources.

8. Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

(c) The land management plan shall, at a minimum, contain the following elements:

1. A physical description of the land.

2. A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other significant land, cultural, or historical features. The inventory shall reflect the number of acres for each resource and feature, when appropriate. The inventory shall be of such detail that objective measures and benchmarks can be established for each tract of land and monitored during the lifetime of the plan. All quantitative data collected shall be aggregated, standardized, collected, and presented in an electronic format to allow for uniform management reporting and analysis. The information collected by the Department of Environmental Protection pursuant to s. 253.0325(2) shall be available to the land manager and his or her assignee.

3. A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives. Each land management objective must be addressed by the land management plan, and if ~~where~~ practicable, a ~~no~~ land management objective may not ~~shall~~ be performed to the detriment of the other land management objectives.

4. A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities. The schedule shall include for each activity a timeline for completion, quantitative

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measures, and detailed expense and manpower budgets. The schedule shall provide a management tool that facilitates development of performance measures.

5. A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. The summary budget shall be prepared in such manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the categories described in s. 259.037(3).

(d) Upon completion, the land management plan must ~~will~~ be transmitted to the Acquisition and Restoration Council for review. The ~~Acquisition and Restoration~~ council shall have 90 days after receipt of the plan to review the plan and submit its recommendations to the board of trustees. During the review period, the land management plan may be revised if agreed to by the primary land manager and the ~~Acquisition and Restoration~~ council taking into consideration public input. ~~If the Acquisition and Restoration Council fails to make a recommendation for a land management plan, the secretary of the Department of Environmental Protection, Commissioner of Agriculture, or Executive Director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.~~ The land management plan becomes effective upon approval by the board of trustees.

(e) Land management plans are to be updated every 10 years on a rotating basis. Each updated land management plan must identify any conservation lands under the plan, in part or in whole, that are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.

(f) In developing land management plans, at least one public hearing shall be held in any one affected county.

(g) The Division of State Lands shall make available to the public an electronic copy of each land management plan for parcels that exceed 160 acres in size. The division ~~of State Lands~~ shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. The Acquisition and Restoration Council shall also consider the propriety of the recommendations of the managing entity with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing entity, and the possibility of disposal of the property by the board of trustees. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan. If the ~~Acquisition and Restoration~~ council fails to make a recommendation for a land management plan, the Secretary ~~of the Department~~ of Environmental Protection, Commissioner of Agriculture, or

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executive director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.

(h) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall consider the land management plan submitted by each entity and the recommendations of the Acquisition and Restoration Council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(i)1. State nonconservation lands shall be managed to provide the greatest benefit to the state. State nonconservation lands may be grouped by similar land use types under one land use plan. Each land use plan shall, at a minimum, contain the following elements:

a. A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources.

b. A desired development outcome.

c. A schedule for achieving the desired development outcome.

d. A description of both short-term and long-term development goals.

e. A management and control plan for invasive nonnative plants.

f. A management and control plan for soil erosion and soil and water contamination.

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g. Measureable objectives to achieve the goals identified in the land use plan.

2. Short-term goals shall be achievable within a 5-year planning period and long-term goals shall be achievable within a 10-year planning period.

3. The use or possession of any such lands that is not in accordance with an approved land use plan is subject to termination by the board of trustees.

4. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan.

~~(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall determine whether the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall determine whether the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.~~

~~(a) For the purposes of this subsection, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast~~

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~~Program and titled to the board which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes.~~

~~(b) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those specifically managed for conservation or recreation purposes, or the State University System or the Florida College System may not be designated as having been purchased for conservation purposes.~~

~~(c) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each manager shall evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the council shall review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board. For nonconservation lands, the division shall review such lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.~~

~~(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) must be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.~~

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~~(e) Before any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.~~

~~(f) In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 45 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing meeting the criteria of s. 420.0004(3). County or local government requests for surplus lands shall be expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board decides the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest must then be available for sale on the private market.~~

~~(g) The sale price of lands determined to be surplus pursuant to this subsection and s. 253.82 shall be determined by~~

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~~the division, which shall consider an appraisal of the property, or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.~~

~~1. A written valuation of land determined to be surplus pursuant to this subsection and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~a. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board.~~

~~b. Before expiration of the exemption, the division may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:~~

~~(I) During negotiations for the sale or exchange of the land.~~

~~(II) During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process.~~

~~(III) When the passage of time has made the conclusions of value invalid.~~

~~(IV) When negotiations or marketing efforts concerning the land are concluded.~~

~~2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer~~


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~~title to all or any portion of the lands to any private owner for 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.~~

~~(h) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. The division may use agents, as authorized by s. 253.431, for this process. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.~~

~~(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or are no longer needed. The board may require an agency to release its interest in such lands. A state agency, county, or local government that has requested the use of a property that was to be declared as surplus must secure the property under lease within 90 days after being notified that it may use such property.~~

~~(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next~~


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~~regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph are not required to be offered to local or state governments as provided in paragraph (f).~~

~~(k) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.~~

~~(l) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.~~

~~(m) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.~~

~~(n) Notwithstanding this subsection, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.~~

~~(o) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.~~

~~(p) The board may adopt rules to administer this section which may include procedures for administering surplus land requests and criteria for when the division may approve requests~~

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~~to surplus nonconservation lands on behalf of the board.~~

(6)~~(7)~~ This section does ~~shall~~ not ~~be construed so as to~~ affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the board of trustees ~~of the Internal Improvement Trust Fund~~ of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

(7)~~(8)~~(a) The Legislature recognizes the value of the state's conservation lands as water recharge areas and air filters.

(b) If state-owned lands are subject to annexation procedures, the Division of State Lands must notify the county legislative delegation of the county in which the land is located.

(8)~~(9)~~ Land management plans required to be submitted by the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Families, or the Department of Education are not subject to ~~the provisions for~~ review by the Acquisition and Restoration Council ~~or its successor described in subsection (5)~~. Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the board of

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trustees ~~of the Internal Improvement Trust Fund~~ for consideration. The board of trustees ~~of the Internal Improvement Trust Fund~~ shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(9)~~(10)~~ The following additional uses of conservation lands acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if ~~where~~:

(a) The use is not inconsistent with the management plan for such lands;

(b) The use is compatible with the natural ecosystem and resource values of such lands;

(c) The ~~proposed~~ use is appropriately located on such lands and if ~~where~~ due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be

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returned to the lead managing entity in accordance with s. 259.032(9)(c).

(10) ~~(11)~~ Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

(11) ~~(12)~~ Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

~~(13) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund~~

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~~regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.~~

Section 6. Section 253.0341, Florida Statutes, is amended to read:

253.0341 Surplus of state-owned lands ~~to counties or local governments. Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.~~

(1) The board of trustees shall determine which lands, the title to which is vested in the board, may be surplused. For all

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conservation lands, the Acquisition and Restoration Council shall make a recommendation to the board of trustees, and the board of trustees shall determine whether the lands are no longer needed for conservation purposes. If the board of trustees determines the lands are no longer needed for conservation purposes, it may dispose of such lands by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board of trustees must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands by an affirmative vote of at least three members. Local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplused without the consent of all joint owners ~~The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request~~.

(2) For purposes of this section, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally

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Endangered Lands Program, and the Save Our Coast Program and titled to the board of trustees which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes ~~County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation lands shall be considered by the board within 120 days of the board's receipt of the request~~.

(3) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board of trustees must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections; the Department of Management Services for use as state offices; the Department of Transportation, except those lands specifically managed for conservation or recreation purposes; the State University System; or the Florida College System may not be designated as having been acquired for conservation purposes ~~A local government may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects as defined in s. 373.019, public facilities such as schools, fire and police facilities, and affordable housing. The request shall comply with the requirements of subsection (1) if the lands are nonconservation lands or subsection (2) if the lands are conservation lands. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the~~

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~~local government under the provisions of s. 125.379 or s. 166.0451~~.

(4) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees ~~Notwithstanding the requirements of this section and the requirements of s. 253.034 which provides a surplus process for the disposal of state lands, the board shall convey to Miami-Dade County title to the property on which the Graham Building, which houses the offices of the Miami-Dade State Attorney, is located. By January 1, 2008, the board shall convey fee simple title to the property to Miami-Dade County for a consideration of one dollar. The deed conveying title to Miami-Dade County must contain restrictions that limit the use of the property for the purpose of providing workforce housing as defined in s. 420.5095, and to house the offices of the Miami-Dade State Attorney. Employees of the Miami-Dade State Attorney and the Miami-Dade Public Defender who apply for and meet the income qualifications for workforce housing shall receive preference over other qualified applicants~~.

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(5) Conservation lands owned by the board of trustees which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to s. 253.034(5) must be reviewed by the Acquisition and Restoration Council for its recommendation as to whether such lands should be disposed of by the board of trustees.

(6) Before any decision by the board of trustees to surplus conservation lands, the Acquisition and Restoration Council shall review and make recommendations to the board of trustees concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(7) Before a facility or parcel of nonconservation land is offered for lease to a local or federal unit of government, state university, Florida College System institution, or private party, it shall first be offered for lease to state agencies. Within 45 days after the offer for lease of a facility or parcel, a state agency that requests the lease must submit a plan to the board of trustees that includes a description of the proposed use, including future use, of the facility or parcel. The board of trustees must review and approve the plan before approving the lease. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the facility or parcel meets an existing need that cannot otherwise be met, and other criteria adopted by rule of the board of trustees. The board of trustees or its designee shall compare the estimated value of the facility or parcel to any submitted business plan to determine if the lease

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or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 to implement this section. A state agency that has requested the use of a facility or parcel must secure the facility or parcel with a fully executed lease within 90 days after being notified that it may use such facility or parcel or the request is voidable.

(8) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.

2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:

a. During negotiations for the sale or exchange of the land;


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b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;

c. When the passage of time has made the conclusions of value invalid; or

d. When negotiations or marketing efforts concerning the land are concluded.

(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.

(9) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.

(10) After reviewing the recommendations of the Acquisition and Restoration Council, the board of trustees shall determine whether conservation lands identified for surplus should be held for other public purposes or are no longer needed. The board of trustees may require an agency to release its interest in such lands. An entity approved to use conservation lands by the board of trustees must secure the property under a fully executed

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lease within 90 days after being notified that it may use such property or the request is voidable.

(11) Requests to surplus lands may be made by any public or private entity or person and shall be determined by the board of trustees. All requests to surplus conservation lands shall be submitted to the lead managing agency for review and recommendation to the Acquisition and Restoration Council, and all requests to surplus nonconservation lands shall be submitted to the Division of State Lands for review and recommendation to the board of trustees. The lead managing agencies shall review such requests and make recommendations to the council within 90 days after receipt of the requests. Any requests to surplus conservation lands that are not acted upon within the 90-day period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council. Requests to surplus lands shall be considered by the board of trustees within 60 days after receipt of the requests from the council or division. Requests to surplus lands pursuant to this subsection are not required to be offered to state agencies as provided in subsection (7).

(12) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.

(13) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be

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deposited into the fund from which the lands were purchased.

(14) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.

(15) Notwithstanding this section, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(16) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the Acquisition and Restoration Council.

(17) The board of trustees may adopt rules to administer this section, including procedures for administering surplus land requests and criteria for when the Division of State Lands may approve requests to surplus nonconservation lands on behalf of the board of trustees.

(18) Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under s. 125.379 or s. 166.0451.

Section 7. Section 253.111, Florida Statutes, is amended to read:

253.111 Riparian owners of land ~~Notice to board of county commissioners before sale. The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:~~

~~(1) If an application is filed with the board requesting~~

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~~that they sell certain land to which they hold title and the board decides to sell such land or if the board, without such application, decides to sell such land, the board shall, before consideration of any private offers, notify the board of county commissioners of the county in which such land is situated that such land is available to such county. Such notification shall be given by registered mail, return receipt requested.~~

~~(2) The board of county commissioners of the county in which such land is situated shall, within 40 days after receipt of such notification from the board, determine by resolution whether or not it proposes to acquire such land.~~

~~(3) If the board receives, within 45 days after notice is given to the board of county commissioners pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board shall forthwith convey to the county such land at a price that is equal to its appraised market value established by generally accepted professional standards for real estate appraisal and subject to such other terms and conditions as the board determines.~~

~~(4) Nothing in This section restricts any right otherwise granted to the board by this chapter to convey land to which they hold title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. The word "land" as used in this act means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.~~

(1) ~~(5)~~ If a ~~any~~ riparian owner exists with respect to any land to be sold by the board of trustees, such riparian owner

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shall have a right to secure such land, ~~which right is prior in interest to the right in the county created by this section,~~ provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the board of trustees. Such riparian owner may waive this ~~prior~~ right~~, in which case this section shall apply~~.

(2)~~(6)~~ This section does not apply to:

(a) Any land exchange approved by the board of trustees;

(b) The conveyance of any lands located within the Everglades Agricultural Area; or

(c) Lands managed pursuant to ss. 253.781-253.785.

Section 8. Section 253.42, Florida Statutes, is amended to read:

253.42 Board of trustees may exchange lands.~~—The provisions of~~ This section applies ~~apply~~ to all lands owned by, vested in, or titled in the name of the board of trustees whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(1) The board of trustees may exchange any lands owned by, vested in, or titled in its ~~the~~ name ~~of the board~~ for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. ~~Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the~~

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~~county or local government is for a public purpose.~~ For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board of trustees shall require an exchange of equal value. Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.

(3) The board of trustees shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money the board of trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of equalizing the value of the exchanged property. The board of trustees is authorized to make and enter into contracts or agreements for such purpose or purposes.

(4)(a) A person who owns land contiguous to state-owned land titled to the board of trustees may submit a request to the Division of State Lands to exchange all or a portion of the privately owned land for all or a portion of the state-owned land, whereby the state retains a permanent conservation

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easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. State-owned land exchanged pursuant to this subsection shall be contiguous to the privately owned land upon which the state retains a permanent conservation easement. If the division elects to proceed with a request, the division must submit the request to the Acquisition and Restoration Council for review and the council must provide recommendations to the division. If the division elects to forward a request to the board of trustees, the division must provide its recommendations and the recommendations of the council to the board. This subsection does not apply to state-owned sovereign submerged land.

(b) After receiving a request and the division's recommendations, the board of trustees shall consider such request and recommendations and may approve the request if:

1. At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.

2. The approval does not result in a violation of the terms of a preexisting lease or agreement by the board of trustees, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.

3. For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.

4. The approval does not conflict with any existing flowage

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easement.

5. The request is approved by three or more members of the board of trustees.

(c) Special consideration shall be given to a request that maintains public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board of trustees. A person who maintains public access pursuant to this paragraph is entitled to the limitation on liability provided in s. 375.251.

(d) Land subject to a permanent conservation easement granted pursuant to this subsection is subject to inspection by the Department of Environmental Protection to ensure compliance with the terms of the permanent conservation easement.

Section 9. Subsection (2) of section 253.782, Florida Statutes, is amended to read:

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(2) The Department of Environmental Protection is authorized ~~and directed~~ to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including all fee and less than fee ~~less-than-fee~~ interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

Section 10. Section 253.7821, Florida Statutes, is amended to read:

253.7821 Cross Florida Greenways State Recreation and

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Conservation Area assigned to the Department of Environmental Protection ~~Office of the Executive Director~~.—The Cross Florida Greenways State Recreation and Conservation Area is ~~hereby~~ established and ~~is initially~~ assigned to the department ~~Office of Greenways Management within the Office of the Secretary~~. The department ~~office~~ shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any other authority of the department.

Section 11. Section 253.87, Florida Statutes, is created to read:

253.87 Inventory of state, federal, and local government conservation lands by the Department of Environmental Protection.—

(1) By July 1, 2018, the department shall include in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement. The department shall update the database at least every 5 years.

(2) By July 1, 2018, for counties and municipalities, and by July 1, 2019, for financially disadvantaged small communities, as defined in s. 403.1838, and at least every 5 years thereafter, respectively, each county, municipality, and financially disadvantaged small community shall identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit,

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in a manner determined by the department, a list of such lands to the department. Within 6 months after receiving such list, the department shall add such lands to the FL-SOLARIS database.

(3) By January 1, 2018, the department shall conduct a study and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the technical and economic feasibility of including the following lands in the FL-SOLARIS database or a similar public lands inventory:

(a) All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.

(b) All publicly and privately owned lands for which development rights have been transferred.

(c) All privately owned lands under a permanent conservation easement.

(d) All lands owned by a nonprofit or nongovernmental organization for conservation purposes.

(e) All lands that are part of a mitigation bank.

Section 12. Section 259.01, Florida Statutes, is amended to read:

259.01 Short title.—This chapter shall be known and may be cited as the "Land Conservation Program ~~Act of 1972~~."

Section 13. Section 259.02, Florida Statutes, is repealed.

Section 14. Subsection (6) of section 259.03, Florida Statutes, is amended to read:

259.03 Definitions.—The following terms and phrases when used in this chapter shall have the meanings ascribed to them in

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this section, except where the context clearly indicates a different meaning:

(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital improvements within a Florida Forever project boundary. ~~The term does not include construction of treatment, transmission, or distribution facilities~~.

Section 15. Subsections (6), (7), and (8) and paragraphs (a) and (d) of section (9) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and recreation lands.—

(6) Conservation and recreation lands are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025 ~~259.041~~, except as otherwise provided by the Legislature. An inholding or an addition to conservation and recreation lands is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased for conservation and recreation purposes, the project may be removed from the list and the remaining acreage may continue to

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be purchased. Funds appropriated to acquire conservation and recreation lands may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the department ~~of Environmental Protection~~ to condemn a specific parcel of land and such parcel has already been approved for acquisition, the land may be acquired in accordance with ~~the provisions of~~ chapter 73 or chapter 74, and the funds appropriated to acquire conservation and recreation lands may be used to pay the condemnation award and all costs, including reasonable attorney fees, associated with condemnation.

(7) All lands managed under this chapter and s. 253.034 shall be:

(a) Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b) Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities ~~compatible with the purposes for which the lands were acquired~~.

~~(c) Managed for the purposes for which the lands were acquired, consistent with paragraph (9)(a).~~

(c) ~~(d)~~ Concurrent with its adoption of the annual list of acquisition projects pursuant to s. 259.035, the board ~~of~~

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~~trustees~~ shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; and

8. Recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(d) ~~(c)~~ Concurrent with the approval of the acquisition contract pursuant to s. 253.025(4)(c) ~~259.041(3)(c)~~ for any interest in lands except those lands ~~being~~ acquired pursuant to ~~under the provisions of~~ s. 259.1052, the board ~~of trustees~~ shall designate an agency or agencies to manage such lands. The board shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035 to ensure that the policy statement is compatible with conservation,

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recreation, or both~~, consistent with the purposes for which the lands are acquired~~. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less than fee ~~less-than-fee~~ interest in land that is or will be used for agricultural purposes, the board ~~of trustees of the Internal Improvement Trust Fund~~ shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(e)~~(f)~~ State agencies designated to manage lands acquired under this chapter or with funds deposited into the Land Acquisition Trust Fund, except those lands acquired under s. 259.1052, may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the land acquisition trust fund of the lead land managing agency in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(f)~~(g)~~ Immediately following the acquisition of any interest in conservation and recreation lands, the department ~~of Environmental Protection~~, acting on behalf of the board ~~of trustees~~, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

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(8)(a) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board ~~of trustees~~, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) Individual management plans required by s. 253.034(5), for parcels over 160 acres, shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. If habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management without restricting other uses identified in the management plan. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The areawide public hearing shall be held in the county in which the core parcels are located. Notice of such public hearing shall be


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posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (7)(c) ~~(7)(d)~~ shall be available to the public for a period of 30 days before ~~prior to~~ the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of the board ~~of trustees~~. Such updates, for parcels over 160 acres, shall be developed with input from an advisory group. Such plans may include transfers of leasehold interests to appropriate conservation organizations or governmental entities designated by the ~~Land Acquisition and Management Advisory~~ council ~~or its successor,~~ for uses consistent with the purposes of the organizations and the protection, preservation, conservation, restoration, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d)~~1.~~ For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the priority list developed pursuant to s. 259.105 have been acquired. The department ~~of Environmental Protection~~ shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district


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would otherwise be entitled to any budget entity or any water management district that has more than one-third of its management plans overdue.

~~2. The requirements of subparagraph 1. do not apply to the individual management plan for the Babcock Crescent B Ranch being acquired pursuant to s. 259.1052. The management plan for the ranch shall be adopted and in place no later than 2 years following the date of acquisition by the state.~~

(e) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to achieve the desired outcomes, including, but not limited to, providing public access, preserving and protecting natural resources, protecting cultural and historical resources, restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities~~, based on the purposes for which the lands were acquired~~.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective

methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value ~~for which the lands were acquired~~. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses and public access that would be compatible with conservation, recreation, or both ~~that would be consistent with the purposes for which the lands were acquired~~.

(f) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the ~~Acquisition and Restoration~~ council, which shall:

1. Within 60 days after receiving a plan from the Division of State Lands, review each plan for compliance with the requirements of this subsection and with the requirements of the rules adopted ~~established~~ by the board pursuant to this subsection.

2. Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, submit the plan, along with its recommendations and comments, to the board ~~of trustees~~, with recommendations as to whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g) The board ~~of trustees~~ shall consider the individual management plan submitted by each state agency and the recommendations of the ~~Acquisition and Restoration~~ council and

the department ~~Division of State Lands~~ and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board ~~of trustees~~ which is not in accordance with an approved individual management plan is subject to termination by the board ~~of trustees~~.

By July 1 of each year, each governmental agency and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(9)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained in a manner that is compatible with conservation, recreation, or both, consistent with the land management plan ~~for the purposes for which they were acquired~~ and for the public to have access to and use of these lands if public access ~~where it is consistent with acquisition purposes and~~ would not harm the resources the state is seeking to protect on the public's behalf.

(d) Up to one-fifth of the funds appropriated for the purposes identified in paragraph (b) shall be reserved by the board ~~of trustees~~ for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow

limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (7)(f) ~~(7)(g)~~. The board ~~of trustees~~ shall make these interim funds available immediately upon purchase.

Section 16. Subsection (3) and paragraph (a) of subsection (4) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(3) The council shall provide assistance to the board ~~of trustees~~ in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this chapter. The council shall, in reviewing such ~~recommendations and~~ plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(b).

(4)(a) By December 1, 2016, the ~~Acquisition and Restoration~~ council shall develop rules defining specific criteria and numeric performance measures needed for lands that are to be acquired for public purpose under the Florida Forever program pursuant to s. 259.105 or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules shall be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature may reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented. Subsequent to their approval,

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each recipient of funds from the Land Acquisition Trust Fund shall annually report to the department ~~Division of State Lands~~ on each of the numeric performance measures accomplished during the previous fiscal year.

Section 17. Subsections (1), (2), (4), and (5) of section 259.036, Florida Statutes, are amended to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the board ~~of Trustees of the Internal Improvement Trust Fund~~ are being managed for ~~the~~ purposes that are compatible with conservation, preservation, or recreation ~~for which they were acquired and~~ in accordance with a land management plan adopted pursuant to s. 259.032, the board ~~of trustees~~, acting through the department ~~of Environmental Protection~~, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Florida Forest Service of the Department of Agriculture and Consumer Services.

4. One individual from the Fish and Wildlife Conservation Commission.

5. One individual from the department’s district office in

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which the parcel is located.

6. A private land manager, preferably from the local community, mutually agreeable to the state agency representatives.

7. A member or staff from the jurisdictional water management district or ~~of the~~ local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The department ~~staff of the Division of State Lands~~ shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select management areas before ~~prior to~~ the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the department ~~Division of State Lands~~ shall schedule a land management review at least every 5 years. A copy of the review shall be provided to the manager, the department ~~Division of State Lands~~, and the ~~Acquisition and Restoration~~ council. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

(4) In the event a land management plan has not been adopted within the timeframes specified in s. 259.032(8), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed in a

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manner that is compatible with conservation, recreation, or both ~~for the purposes for which it was acquired~~ and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed in a manner that is compatible with conservation, recreation, or both, consistent ~~for the purposes for which they were acquired or in compliance~~ with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.

Section 18. Section 259.037, Florida Statutes, is amended to read:

259.037 Land Management Uniform Accounting Council.—

(1) The Land Management Uniform Accounting Council (LMUAC) is created within the Department of Environmental Protection and shall consist of the director of the Division of State Lands, the director of the Division of Recreation and Parks, and the director of the Office of Coastal and Aquatic Managed Areas~~, and the director of the Office of Greenways and Trails~~ of the department ~~of Environmental Protection~~; the director of the Florida Forest Service of the Department of Agriculture and Consumer Services; the executive director of the Fish and Wildlife Conservation Commission; and the director of the Division of Historical Resources of the Department of State, or


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their respective designees. Each state agency represented on the LMUAC ~~council~~ shall have one vote. The chair of the LMUAC ~~council~~ shall rotate annually in the foregoing order of state agencies. The agency of the representative serving as chair ~~of the council~~ shall provide staff support for the LMUAC ~~council~~. The Division of State Lands shall serve as the recipient of and repository for the LMUAC's ~~council's~~ documents. The LMUAC ~~council~~ shall meet at the request of the chair.

(2) The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability, or their designees, shall advise the LMUAC ~~council~~ to ensure that appropriate accounting procedures are used ~~utilized~~ and that a uniform method of collecting and reporting accurate costs of land management activities are created and can be used by all agencies.

(3)(a) All land management activities and costs must be assigned to a specific category, and any single activity or cost may not be assigned to more than one category. Administrative costs, such as planning or training, shall be segregated from other management activities. Specific management activities and costs must initially be grouped, at a minimum, within the following categories:

1. Resource management.
2. Administration.
3. Support.
4. Capital improvements.
5. Recreation visitor services.
6. Law enforcement activities.

Upon adoption of the initial list of land management categories by the LMUAC ~~council~~, agencies assigned to manage conservation or recreation lands shall~~, on July 1, 2000, begin to~~ account for land management costs in accordance with the category to which an expenditure is assigned.

(b) Each reporting agency shall also:

1. Include a report of the available public use opportunities for each management unit of state land, the total management cost for public access and public use, and the cost associated with each use option.

2. List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(9)(c). For each category created in paragraph (a), the reporting agency shall include the amount of funds requested, the amount of funds received, and the amount of funds expended for land management.

3. List acres managed and cost of management for each park, preserve, forest, reserve, or management area.

4. List acres managed, cost of management, and lead manager for each state lands management unit for which secondary management activities were provided.

5. Include a report of the estimated calculable financial benefits to the public for the ecosystem services provided by conservation lands, based on the best readily available information or science that provides a standard measurement methodology to be consistently applied by the land managing agencies. Such information may include, but need not be limited to, the value of natural lands for protecting the quality and quantity of drinking water through natural water filtration and

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recharge, contributions to protecting and improving air quality, benefits to agriculture through increased soil productivity and preservation of biodiversity, and savings to property and lives through flood control.

(4) The LMUAC ~~council~~ shall provide a report of the agencies' expenditures pursuant to the adopted categories to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

(5) Should the LMUAC ~~council~~ determine that the list of land management categories needs to be revised, it shall meet upon the call of the chair.

(6) Biennially, each reporting agency shall also submit an operational report for each management area along with an approved management plan. The report should assess the progress toward achieving short-term and long-term management goals of the approved management plan, including all land management activities, and identify any deficiencies in management and corrective actions to address identified deficiencies as appropriate. This report shall be submitted to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

Section 19. Subsections (1) through (6) and (8) through (19) of section 259.041, Florida Statutes, are repealed.

Section 20. Subsection (2) of section 259.047, Florida Statutes, is amended to read:

259.047 Acquisition of land on which an agricultural lease exists.—

(2) If ~~Where~~ consistent with the purposes of conservation

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and recreation ~~for which the property was acquired~~, the state or acquiring entity shall make reasonable efforts to keep lands in agricultural production which are in agricultural production at the time of acquisition.

Section 21. Subsection (8) of section 259.101, Florida Statutes, is renumbered as subsection (7), and subsection (5), paragraph (a) of subsection (6), and present subsection (7) of that section are amended, to read:

259.101 Florida Preservation 2000 Act.—

(5) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to former paragraphs (3)(a), (3)(c), (3)(d), (3)(e), (3)(f), or (3)(g) of this section, Florida Statutes 2014, if title to such lands is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, may be disposed of by the board ~~of Trustees of the Internal Improvement Trust Fund~~ in accordance with the provisions and procedures set forth in s. 253.0341 ~~253.034(6)~~, and lands acquired pursuant to former paragraph (3)(b) of this section, Florida Statutes 2014, may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land acquired with Preservation 2000 funds may be surplused as required by s. 253.0341 ~~253.034(6)~~ or determined to be no longer required for its purposes under s. 373.056(4), as applicable, there shall first be a determination by the board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, by the owning water

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management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands if such lands obtained in an exchange are described in the same paragraph of former subsection (3) of this section, Florida Statutes 2014, as the lands disposed.

(c) Revenue derived from the disposal of lands acquired with Preservation 2000 funds may not be used for any purpose except for deposit into the Florida Forever Trust Fund within the department ~~of Environmental Protection~~, for recredit to the share held under former subsection (3) of this section, Florida Statutes 2014, in which such disposed land is described.

(6) ALTERNATE USES OF ACQUIRED LANDS.—

(a) The board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to former subsection (3) of this section, Florida Statutes 2014, for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation ~~the~~ purposes ~~for which such lands were acquired~~.

~~(7) ALTERNATIVES TO FEE SIMPLE ACQUISITION.—~~

~~(a) The Legislature finds that, with the increasing~~

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~~pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:~~

~~1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.~~

~~2. Retain, on local government tax rolls, some portion of or interest in lands that are under public protection.~~

~~3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, as appropriate.~~

~~Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition~~

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~~techniques may not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.~~

~~(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects that require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes the purchase of development rights; conservation easements; flowage easements; the purchase of timber rights, mineral rights, or hunting rights; the purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique that achieves the public policy goals identified in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions do not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques if appropriate.~~

~~(c) The department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such~~

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~~alternatives. These initiatives must include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.~~

~~(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.~~

~~(e) The public agency that has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement relating to such interest.~~

~~(f) The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.~~

Section 22. Paragraph (a) of subsection (2), paragraphs (i) and (l) of subsection (3), subsections (10) and (13), paragraph (i) of subsection (15), and subsection (19) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and

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conservation lands.

2. The continued alteration and development of the state's ~~Florida's~~ natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of the state's ~~Florida's~~ remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's ~~Florida's~~ groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the

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water management districts, water resource development projects on public lands, if ~~where~~ compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state ~~Florida~~ for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's ~~Florida's~~ unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's ~~Florida's~~ burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if ~~where~~ compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's ~~Florida's~~ natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less than fee ~~less-than-fee~~ interest, or other techniques shall be based on a comprehensive science-based assessment of the state's ~~Florida's~~

natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired,

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identified by the lead land managing agency, in consultation with the ~~Florida~~ Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management for conservation, recreation, or both, consistent with the land management plan ~~purposes for which such lands are acquired~~ without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The ~~Acquisition and Restoration~~ council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

~~a.~~ As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset

adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

~~b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.~~

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the department of Environmental Protection in the following manner:

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(i) Three and five-tenths percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less than fee ~~less-than-fee~~ techniques, which will achieve the objectives of Florida Forever and s. 570.71. Rules concerning the application, acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 570.715 ~~259.041~~. ~~Provisions of~~ The rules developed pursuant to s. 570.71(10), shall also provide for the following:

1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the ~~Acquisition and Restoration~~ council for review, and approved by the board pursuant to s. 259.04.

2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may ~~shall~~ not be delegated by the board to any other entity receiving funds under this section.

3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.

~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended until final adoption of rules by the board pursuant to s. 570.71.

(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their

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individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~. Proposed additions not meeting the requirements of this paragraph shall be submitted to the ~~Acquisition and Restoration~~ council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.

(10) The ~~Acquisition and Restoration~~ council shall give increased priority to:

(a) ~~those~~ Projects for which matching funds are available.

(b) ~~and to~~ Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.

(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.

(e) Projects that contribute to improving the water quality and flow of springs.

(f) ~~The council shall also give increased priority to those~~

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Projects for which ~~where~~ the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

1.~~(a)~~ Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2.~~(b)~~ Protecting areas underlying low-level military air corridors or operating areas; and

3.~~(c)~~ Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

(13) An affirmative vote of at least five members of the ~~Acquisition and Restoration~~ council shall be required in order to place a ~~proposed~~ project submitted pursuant to subsection (7) on the proposed project list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before ~~prior to~~ voting for a project's inclusion on the list.

(15) The ~~Acquisition and Restoration~~ council shall submit to the board ~~of trustees~~, with its list of projects, a report that includes, but need ~~shall~~ not be limited to, the following information for each project listed:

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~.

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(19) The ~~Acquisition and Restoration~~ council shall recommend adoption of rules by the board ~~of trustees~~ necessary to implement ~~the provisions of~~ this section relating to~~:~~ solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. ~~Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2010 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.~~

Section 23. Subsections (6) and (7) of section 259.1052, Florida Statutes, are amended to read:

259.1052 Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.—

~~(6) In addition to distributions authorized under s. 259.105(3), the Department of Environmental Protection is authorized to distribute $310 million in revenues from the Florida Forever Trust Fund. This distribution shall represent payment in full for the portion of the Babcock Crescent B Ranch to be acquired by the state under this section.~~

~~(7) As used in this section, the term "state's portion of~~

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~~the Babcock Crescent B Ranch" comprises those lands to be conveyed by special warranty deed to the Board of Trustees of the Internal Improvement Trust Fund under the provisions of the agreement for sale and purchase executed by the Board of Trustees of the Internal Improvement Trust Fund, the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.~~

Section 24. Section 570.715, Florida Statutes, is created, and subsection (7) of section 259.041, Florida Statutes, is transferred, renumbered as subsection (5) of section 570.715, Florida Statutes, and amended, to read:

570.715 Conservation easement acquisition procedures.—

(1) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the following acquisition procedures:

(a) Before conveyance of title by the department, evidence of marketable title in the form of a commitment for title insurance or an abstract of title with a title opinion shall be obtained.

(b) Before approval by the board of trustees of an agreement to purchase less than fee simple title to land pursuant to s. 570.71, an appraisal of the parcel shall be required as follows:

1. Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, when both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained.

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2. Appraisal fees and associated costs shall be paid by the department. All appraisals used for the acquisition of less than fee simple interest in lands pursuant to this section shall be prepared by a state-certified appraiser who meets the standards and criteria established by rule of the board of trustees. Each appraiser selected to appraise a particular parcel shall, before contracting with the department or a participant in a multiparty agreement, submit to the department or participant an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(c) A certified survey must be made that meets the minimum requirements for upland parcels established in the Standards of Practice for Land Surveying in Florida published by the department and that accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in whole or in part, be waived by the board of trustees any time before acquisition of the less than fee simple interest. If an existing boundary map and description of a parcel are determined by the department to be sufficient for appraisal purposes, the department may temporarily waive the requirement for a survey until any time before conveyance of title to the parcel.

(d) On behalf of the board of trustees and before the appraisal of parcels approved for purchase under ss. 259.105(3)(i) and 570.71, the department may enter into option contracts to buy less than fee simple interest in such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees and that the final purchase price may not exceed the maximum offer

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authorized by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation by the Legislature. The consideration for any such option contract may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(e) A final offer shall be in the form of an option contract or agreement for purchase of the less than fee simple interest and shall be signed and attested to by the owner and the department. Before the department signs the agreement for purchase of the less than fee simple interest or exercises the option contract, the requirements of s. 286.23 shall be complied with.

(f) The procedures provided in s. 253.025(9)(a)-(d) and (10) shall be followed.

(2) If the public's interest is reasonably protected, the board of trustees may:

(a) Waive any requirement of this section.

(b) Waive any rules adopted pursuant to s. 570.71, notwithstanding chapter 120.

(c) Substitute any other reasonably prudent procedures, including federally mandated acquisition procedures, for the procedures in this section, if federal funds are available and will be used for the purchase of a less than fee simple interest in lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(3) The less than fee simple land acquisition procedures

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provided in this section are for voluntary, negotiated acquisitions.

(4) For purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine availability or eligibility of the property, existing appraisal data, existing abstracts, and surveys.

(5) ~~(7) Prior to approval by the board of trustees or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 260, or chapter 375, and prior to negotiations with the parcel owner to purchase any other land, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:~~

~~(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.~~

~~(b) Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, when both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. When a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of obtaining an outside appraisal is not justified, an appraisal prepared by the division may be used.~~

~~(c) Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. The board of trustees shall approve qualified fee appraisal organizations. All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a member of an approved appraisal~~

~~organization or by a state-certified appraiser who meets the standards and criteria established in rule by the board of trustees. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the agency or a participant in a multiparty agreement, submit to that agency or participant an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.~~

~~(d) The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~

~~(e) Generally,~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the department ~~agency~~ and the board of trustees, until an option contract is executed or, if an ~~no~~ option contract is not executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. However, the department has the authority, at its discretion, to disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written multiparty agreement with the department ~~division to purchase and hold property for subsequent resale to the division. In addition, the division may use, as its own,~~


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~~appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division~~. For ~~the~~ purposes of this subsection ~~chapter~~, the term "nonprofit organization" means an organization whose purposes include the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The department ~~agency~~ may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the department ~~acquiring agency~~ has terminated negotiations.

~~(f) The Division of State Lands may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided that the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, the term "nonprofit organization" means an organization whose purposes include the preservation of natural resources and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.~~

~~Notwithstanding the provisions of this subsection, on behalf of the board and before the appraisal of parcels approved for purchase under this chapter, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board or, when applicable, the secretary and that the final purchase price may not exceed the maximum offer~~

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~~allowed by law. Any such option contract presented to the board for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.~~

Section 25. Subsections (1), (3), and (7) of section 373.089, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(1) Any lands, or interests or rights in lands, determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands, or interests or rights in lands, as determined by a certified appraisal obtained within 360 ~~120~~ days before the effective date of a contract for sale.

(3) Before selling any surplus land, or interests or rights in land, it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which the land, or interests or rights in the land, is situated once each week for 3 successive weeks, ~~(~~three insertions being sufficient.~~),~~ The first publication of the required notice must occur at least ~~which shall be not less than~~

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30 days, but not ~~nor~~ more than 360 ~~45~~ days, before ~~prior to~~ any sale and must include~~, which notice shall set forth~~ a description of lands, or interests or rights in lands, to be offered for sale.

(7) Notwithstanding other provisions of this section, the governing board shall first offer title to lands acquired in whole or in part with Florida Forever funds which are determined to be no longer needed for conservation purposes to the Board of Trustees of the Internal Improvement Trust Fund unless the disposition of those lands is for the following purposes:

(a) Linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.

(b) The disposition of the fee interest in the land where a conservation easement is retained by the district to fulfill the conservation objectives for which the land was acquired.

(c) An exchange of the land for other lands that meet or exceed the conservation objectives for which the original land was acquired in accordance with subsection (4).

(d) To be used by a governmental entity for a public purpose.

(e) The portion of an overall purchase deemed surplus at the time of the acquisition.

(8) If a parcel of land is no longer essential or necessary for conservation purposes and is valued at $25,000 or less as determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the

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governing board may determine that the parcel of land is surplus. The notice of intention to sell must be published as required under subsection (3), one time only. The governing board shall send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website.

(a) Fourteen days after publication of such notice, the district may sell the parcel to an adjacent property owner or, if there are two or more owners of adjacent property, accept sealed bids and sell the parcel to the highest bidder or reject all offers.

(b) Thirty days after publication of such notice, the district shall accept sealed bids and may sell the parcel to the highest bidder or reject all offers.

If ~~In the event~~ the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 26. Paragraph (d) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be

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paid for the parcel.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 253.025 ~~259.041~~, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

Section 27. Paragraph (b) of subsection (1) of section 125.355, Florida Statutes, is amended to read:

125.355 Proposed purchase of real property by county; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 28. Paragraph (b) of subsection (1) of section 166.045, Florida Statutes, is amended to read:

166.045 Proposed purchase of real property by municipality; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal

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by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 29. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program ~~Act of 1972~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 or s. 338.227, the complaint shall be filed in the circuit court of the county where the seat of state

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government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 30. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(17) ~~253.025(14), s. 259.041(18)~~, s. 717.124(4)(b) and (c), s. 732.107(5), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Chief Financial Officer upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 31. Subsection (8) of section 253.027, Florida Statutes, is amended to read:

253.027 Emergency archaeological property acquisition.—

(8) WAIVER OF APPRAISALS OR SURVEYS.—The Board of Trustees of the Internal Improvement Trust Fund may waive or limit any appraisal or survey requirements in s. 253.025 ~~259.041~~, if necessary to effectuate the purposes of this section. Fee simple title is not required to be conveyed if some lesser interest will allow the preservation of the archaeological resource. Properties purchased pursuant to this section shall be

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considered archaeologically unique or significant properties and may be purchased under the provisions of s. 253.025(9) ~~253.025(7)~~.

Section 32. Section 253.7824, Florida Statutes, is amended to read:

253.7824 Sale of products; proceeds.—The Department of Environmental Protection may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited into the appropriate trust fund in accordance with the same disposition provided under s. 253.0341 ~~253.034(6)(k), (l), or (m)~~ applicable to the sale of land.

Section 33. Paragraphs (b) and (c) of subsection (2) of section 260.015, Florida Statutes, are amended to read:

260.015 Acquisition of land.—

(2) For purposes of the Florida Greenways and Trails Program, the board may:

(b) Accept title to abandoned railroad rights-of-way which is conveyed by quitclaim deed through purchase, dedication, gift, grant, or settlement, notwithstanding s. 253.025 ~~259.041(1)~~.

(c) Enter into an agreement or, upon delegation, the department may enter into an agreement, with a nonprofit corporation, as defined in s. 253.025 ~~259.041(7)(c)~~, to assume responsibility for acquisition of lands pursuant to this section. The agreement may transfer responsibility for all matters which may be delegated or waived pursuant to s. 253.025 ~~259.041(1)~~.

Section 34. Paragraph (b) of subsection (3) of section

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260.016, Florida Statutes, is amended to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(b) Agreement to exchange, subject to the approval of the board ~~of Trustees of the Internal Improvement Trust Fund~~ or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned lands. Any exchange of state-owned lands, title to which is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, for privately owned lands shall be subject to the requirements of s. 253.025 ~~259.041~~.

Section 35. Subsections (6) and (7) of section 369.317, Florida Statutes, are amended to read:

369.317 Wekiva Parkway.—

(6) The Central Florida Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 253.025 ~~259.041~~ on behalf of the Board of Trustees of the Internal Improvement Trust Fund or chapter 373 on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less than fee ~~less-than-fee~~ simple

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interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/-acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Central Florida Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road-construction-related impacts

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incurred by the Department of Transportation or Central Florida Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

(a) Acquisition of the land described in this section is required to provide right-of-way for the Wekiva Parkway, a limited access roadway linking State Road 429 to Interstate 4, an essential component in meeting regional transportation needs to provide regional connectivity, improve safety, accommodate projected population and economic growth, and satisfy critical transportation requirements caused by increased traffic volume growth and travel demands.

(b) Acquisition of the lands described in this section is also required to protect the surface water and groundwater resources of Lake, Orange, and Seminole counties, otherwise known as the Wekiva Study Area, including recharge within the springshed that provides for the Wekiva River system. Protection of this area is crucial to the long term viability of the Wekiva River and springs and the central Florida region’s water supply. Acquisition of the lands described in this section is also necessary to alleviate pressure from growth and development affecting the surface and groundwater resources within the recharge area.

(c) Lands acquired pursuant to this section that are needed for transportation facilities for the Wekiva Parkway shall be

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determined not necessary for conservation purposes pursuant to ss. 253.0341 ~~253.034(6)~~ and 373.089(5) and shall be transferred to or retained by the Central Florida Expressway Authority or the Department of Transportation upon reimbursement of the full purchase price and acquisition costs.

(7) The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Central Florida Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities. Properties acquired with Florida Forever funds shall be in accordance with s. 253.025 ~~259.041~~ or chapter 373. The Central Florida Expressway Authority shall acquire land in accordance with this section ~~of law~~ to the extent funds are available from the various funding partners; however, the authority is~~, but shall~~ not ~~be~~ required or ~~nor~~ assumed to fund the land acquisition beyond the agreement and funding provided by the various land acquisition entities.

Section 36. Paragraph (a) of subsection (3) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each county commission within which a proposed work plan project or project modification or addition is located of the hearing date.

(a) Appraisal reports, offers, and counteroffers are

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confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. If ~~In the event that~~ negotiation is terminated by the district, the appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding ~~the provisions of~~ this section and s. 253.025 ~~259.041~~, a district and the Division of State Lands may share and disclose appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 253.025 ~~259.041~~, except in those cases in which a district and the division have exercised discretion to disclose such information. A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this section. In addition, a district may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district’s list of approved appraisers and the

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appraisal is reviewed and approved by the district.

Section 37. Subsection (8) of section 375.031, Florida Statutes, is amended to read:

375.031 Acquisition of land; procedures.—

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Section 38. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) All moneys and revenue from the sale or other disposition of land, water areas, or related resources acquired on or after July 1, 2015, for the purposes of s. 28, Art. X of the State Constitution shall be deposited into or credited to

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the Land Acquisition Trust Fund, except as otherwise provided pursuant to s. 253.0341 ~~253.034(6)(l)~~.

Section 39. Paragraph (a) of subsection (1) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program ~~Act of 1972~~. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need ~~shall~~ not be limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.


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Section 40. Paragraph (b) of subsection (5) of section 380.055, Florida Statutes, is amended to read:

380.055 Big Cypress Area.—

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program ~~Act of 1972~~, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

Section 41. Paragraph (f) of subsection (4) of section 380.508, Florida Statutes, is amended to read:

380.508 Projects; development, review, and approval.—

(4) Projects or activities which the trust undertakes, coordinates, or funds in any manner shall comply with the following guidelines:

(f) The trust shall cooperate with local governments, state agencies, federal agencies, and nonprofit organizations in ensuring the reservation of lands for parks, recreation, fish and wildlife habitat, historical preservation, or scientific study. If any local government, state agency, federal agency, or nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site for the purposes described in this paragraph, the trust may acquire and hold the site for subsequent conveyance to the appropriate governmental agency or nonprofit organization. The trust may provide such technical assistance as required to

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aid local governments, state and federal agencies, and nonprofit organizations in completing acquisition and related functions. The trust may not reserve lands acquired in accordance with this paragraph for more than 5 years from the time of acquisition. A local government, federal or state agency, or nonprofit organization may acquire the land at any time during this period for public purposes. The purchase price shall be based upon the trust's cost of acquisition, plus administrative and management costs in reserving the land. The payment of the purchase price shall be by money, trust-approved property of an equivalent value, or a combination of money and trust-approved property. If, after the 5-year period, the trust has not sold to a governmental agency or nonprofit organization land acquired for site reservation, the trust shall dispose of such land at fair market value or shall trade it for other land of comparable value which will serve to accomplish the purposes of this part. Any proceeds from the sale of such land received by the department shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Project costs may include costs of providing parks, open space, public access sites, scenic easements, and other areas and facilities serving the public where such features are part of a project plan approved according to this part. In undertaking or coordinating projects or activities authorized by this part, the trust shall, when appropriate, use and promote the use of creative land acquisition methods, including the acquisition of less than fee interest through, among other methods, conservation easements, transfer of development rights, leases,

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and leaseback arrangements. The trust shall assist local governments in the use of sound alternative methods of financing for funding projects and activities authorized under this part. Any funds over and above eligible project costs, which remain after completion of a project approved according to this part, shall be transmitted to the state and deposited into the Florida Forever Trust Fund.

Section 42. Section 589.07, Florida Statutes, is amended to read:

589.07 Florida Forest Service may acquire lands for forest purposes.—The Florida Forest Service, on behalf of the state and subject to the restrictions mentioned in s. 589.08, may acquire lands, suitable for state forest purposes, by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the Federal Government, or other agency, for acquiring by gift, purchase, or otherwise, such lands as are, in the judgment of the Florida Forest Service, suitable and desirable for state forests. The acquisition procedures for state lands provided in s. 253.025 ~~259.041~~ do not apply to acquisition of land by the Florida Forest Service.

Section 43. Paragraphs (a) and (b) of subsection (4) of section 944.10, Florida Statutes, are amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(4)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the department finds it to be necessary for timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained

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on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances in which the department directly contracts for appraisal services, it must also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price cannot exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 44. Subsections (6) and (7) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(6) Notwithstanding s. 253.025(9) ~~253.025(7)~~, the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the Department of Management Services if the Department of Management Services finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the Department of Management Services finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8)

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~~253.025(6)(b)~~. In those instances when the Department of Management Services directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the Department of Management Services may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 45. Paragraphs (a) and (b) of subsection (12) of section 985.682, Florida Statutes, are amended to read:

985.682 Siting of facilities; criteria.—

(12)(a) Notwithstanding s. 253.025 or s. 287.057, when the department finds it necessary for timely site acquisition, it may contract, without using the competitive selection procedure, with an appraiser whose name is on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection under s. 253.025(8) ~~253.025(6)(b)~~. When the department directly contracts for appraisal services, it must contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever

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amount is greater.

Section 46. Paragraph (b) of subsection (1) of section 1013.14, Florida Statutes, is amended to read:

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.—

(1)

(b) Before ~~Prior to~~ acquisition of the property, the board shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~ for each purchase in an amount greater than $100,000 and not more than $500,000. For each purchase in an amount in excess of $500,000, the board shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~. If the agreed to purchase price exceeds the average appraised value, the board is required to approve the purchase by an extraordinary vote.

Section 47. For the 2016-2017 fiscal year, the sums of $396,040 in recurring funds and $1,370,528 in nonrecurring funds from the General Revenue Fund are appropriated to the Department of Environmental Protection, and four full-time equivalent positions with associated salary rate of 182,968 are authorized, for the purpose of implementing the amendments made by this act to ss. 253.034 and 253.0341, Florida Statutes, and the provisions of s. 253.87, Florida Statutes, as created by this act.

Section 48. This act shall take effect July 1, 2016.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause

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and insert:

A bill to be entitled

An act relating to state lands; amending s. 253.025, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing that title to certain acquired lands are vested in the board; providing for the administration of such lands; authorizing the board to adopt specified rules; revising requirements for the appraisal of lands proposed for acquisition; requiring an agency proposing an acquisition to pay the associated costs; deleting provisions directing the board to approve qualified fee appraisal organizations; requiring fee appraisers to submit certain affidavits to an agency before contracting with a participant in a multiparty agreement; prohibiting fee appraisers from negotiating with property owners; revising the minimum survey standards incorporated by reference for conducting certified surveys; authorizing the disclosure of confidential appraisal reports under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; revising the definition of the term

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"nonprofit organization"; directing the board to adopt by rule the method for determining the value of parcels sought to be acquired by state agencies; providing requirements for such acquisitions; expanding the scope of real estate acquisition services for which the board and state agencies may contract; authorizing the Department of Environmental Protection to use outside counsel to review any agreements or documents or to perform acquisition closings under certain conditions; requiring state agencies to furnish the Department of Environmental Protection rather than the Division of State Lands with specified acquisition documents; providing that the purchase price of certain parcels is not subject to an increase or decrease as a result of certain circumstances; authorizing the board of trustees to direct the Department of Environmental Protection to exercise eminent domain for the acquisition of certain conservation parcels under certain circumstances; authorizing the Department of Environmental Protection to exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide such service; authorizing the board of trustees to direct the Department of Environmental Protection to purchase lands on an immediate basis using specified funds; authorizing the board of trustees to waive or modify all procedures required for such land acquisition; providing that title to certain lands held jointly by

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the board of trustees and a water management district meet the standards necessary for ownership by the board; creating s. 253.0251, F.S.; providing for the use of alternatives to fee simple acquisition for land purchases by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and water management districts; amending s. 253.03, F.S.; deleting provisions directing the board of trustees to adopt by rule an annual administrative fee for certain leases and similar instruments; revising the criteria by which specified structures have the right to continue submerged land leases; directing the board of trustees to adopt by rule an annual administrative fee for certain leases and instruments; authorizing nonwater-dependent uses for submerged lands; amending s. 253.031, F.S.; providing for the Department of Environmental Protection to maintain documents concerning all state lands; deleting an obsolete provision; amending s. 253.034, F.S.; authorizing the Department of Environmental Protection to submit certain state-owned lands to the Acquisition and Restoration Council or board of trustees for review and consideration; requiring that all nonconservation land use plans are managed to provide the greatest benefit to the state; deleting provisions requiring an analysis of natural or cultural resources as part of a nonconservation land use plan; specifying that certain management and short-term and long-term goals for the conservation of

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plant and animal species apply to conservation lands; providing conditions under which the Secretary of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their designees are required to submit land management plans to the board of trustees; requiring that updated land management plans identify conservation lands that are no longer needed for conservation purposes; deleting provisions directing the board of trustees to make certain determinations regarding the surplus and disposition of state lands; deleting provisions requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; amending s. 253.0341, F.S.; deleting provisions authorizing counties and local governments to submit requests for the surplus of state-owned lands and requiring that such requests be expedited; directing the board of trustees to make certain determinations regarding the surplus and disposition of state lands; providing that lands acquired before a certain date using specified proceeds are deemed to have been acquired for conservation purposes; providing that certain lands used by the Department of Corrections, the Department of Management Services, and the Department of Transportation may not be designated as lands acquired

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for conservation purposes; requiring updated land management plans to identify conservation and nonconservation lands that are no longer used for the purposes for which they were originally leased and that could be disposed of; deleting an obsolete provision; requiring that facilities and nonconservation parcels of land be offered for lease to state agencies before being offered for lease to a local or federal unit of government, state university, Florida College System institution, or private party; providing for the valuation and disposition of surplus lands; providing for the deposit of proceeds from the sale of such lands; authorizing the board of trustees to adopt rules; requiring surplus lands conveyed to a local government for affordable housing to be disposed of by the local government; amending s. 253.111, F.S.; deleting provisions requiring the board of trustees to afford an opportunity to local governments to purchase certain state-owned lands; revising provisions relating to the rights of riparian owners to secure certain state-owned lands; amending s. 253.42, F.S.; authorizing individuals or entities to submit requests to the Division of State Lands to exchange state-owned land for privately held land; requiring the state to retain permanent conservation easements over the state-owned land and all or a portion of the privately held land; requiring the division to submit requests to the Acquisition and Restoration Council for review and recommendation or to the board of trustees with

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recommendations from the division and the council; review requests and provide recommendations to the Acquisition and Restoration Council; providing applicability; directing the board of trustees to consider a request if certain conditions are met; providing special consideration for certain requests; providing that such lands are subject to inspection; amending s. 253.782, F.S.; deleting a provision directing the Department of Environmental Protection to retain ownership of and maintain lands or interests in land owned by the board of trustees; amending s. 253.7821, F.S.; assigning the Cross Florida Greenways State Recreation and Conservation Area to the Department of Environmental Protection rather than the Office of Greenways Management within the Office of the Secretary; creating s. 253.87, F.S.; directing the Department of Environmental Protection to include certain county, municipal, state, and federal lands in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database and to update the database at specified intervals; requiring counties, municipalities, and financially disadvantaged small communities to submit a list of certain lands to the department by a specified date and at specified intervals; directing the department to conduct a study and submit a report to the Governor and the Legislature on the technical and economic feasibility of including certain lands in the database or a similar public lands inventory; amending s. 259.01,

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F.S.; renaming the "Land Conservation Act of 1972" as the "Land Conservation Program"; repealing s. 259.02, F.S., relating to issuance of state bonds for certain land projects; amending 259.03, F.S.; revising the definition of "water resource development project"; amending s. 259.032, F.S.; conforming cross-references; revising provisions relating to the management of conservation and recreation lands to conform with changes made by the act; revising duties of the Acquisition and Restoration Council; amending s. 259.035, F.S.; requiring recipients of funds from the Land Acquisition Trust Fund to annually report certain performance measures to the Department of Environmental Protection rather than the Division of State Lands; amending s. 259.036, F.S.; revising the composition of the regional land management review team; providing for the Department of Environmental Protection rather than the Division of State Lands to act as the review team coordinator; revising requirements for conservation and recreation land management reviews and plans; amending s. 259.037, F.S.; removing the director of the Office of Greenways and Trails from the Land Management Uniform Accounting Council; repealing s. 259.041(1)-(6) and (8)-(19), F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes; amending s. 259.047, F.S.; revising provisions relating to the acquisition of land on which an agricultural lease exists to conform with

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changes made by the act; amending s. 259.101, F.S.; conforming cross-references; revising provisions relating to alternate use of lands acquired under the Florida Preservation 2000 Act to conform with changes made by the act; deleting provisions for alternatives to fee simple acquisition of such lands to conform with changes made by the act; amending s. 259.105, F.S.; deleting provisions requiring the advancement of certain goals and objectives of imperiled species management on state lands to conform with changes made by the act; conforming cross-references; revising provisions directing the Acquisition and Restoration Council to give increased priority to certain projects when developing proposed rules relating to Florida Forever funding and additions to the Conservation and Recreation Lands list; deleting provisions requiring that such rules be submitted to the Legislature for review; amending s. 259.1052, F.S.; deleting provisions authorizing the Department of Environmental Protection to distribute revenues from the Florida Forever Trust Fund for the acquisition of a portion of Babcock Crescent B Ranch; creating s. 570.715, F.S., and transferring, renumbering, and amending s. 259.04(7), F.S.; providing procedures for the acquisition of conservation easements by the Department of Agriculture and Consumer Services; amending s. 373.089, F.S.; extending the timeframe within which a certified appraisal may be obtained for parcels of land to be sold as surplus; providing an

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additional exception to the requirement that the governing board first offer title to certain lands; revising the procedures a water management district must follow for publishing a notice of intention to sell surplus lands; providing an exception from such notice requirements if a parcel of land is valued below a certain threshold; authorizing such parcels to be sold directly to the highest bidder; amending ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S.; conforming cross-references; providing an appropriation and authorizing positions; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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Appropriations Subcommittee on General Government (Simpson) recommended the following:

Senate Amendment to Substitute Amendment (631368) (with title amendment)

Delete lines 1805 - 1822.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete lines 3610 - 3611

and insert:

land projects;

By Senator Simpson

18-00774-16 20161290__

A bill to be entitled

An act relating to state lands; amending s. 253.025, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing that title to certain acquired lands are vested in the board; providing for the administration of such lands; authorizing the board to adopt specified rules; revising requirements for the appraisal of lands proposed for acquisition; requiring an agency proposing an acquisition to pay the associated costs; deleting provisions directing the board to approve qualified fee appraisal organizations; requiring fee appraisers to submit certain affidavits to an agency before contracting with a participant in a multiparty agreement; prohibiting fee appraisers from negotiating with property owners; providing for the Minimum Technical Standards for Land Surveying in Florida to be published by the Department of Agriculture and Consumer Services rather than the Department of Business and Professional Regulation; authorizing the disclosure of confidential appraisal reports under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; revising the definition of the term "nonprofit organization"; directing the board to adopt by rule the method for

18-00774-16 20161290__

determining the value of parcels sought to be acquired by state agencies; providing requirements for such acquisitions; expanding the scope of real estate acquisition services for which the board and state agencies may contract; authorizing the Department of Environmental Protection to use outside counsel to review any agreements or documents or to perform acquisition closings under certain conditions; requiring state agencies to furnish the Department of Environmental Protection rather than the Division of State Lands with specified acquisition documents; providing that the purchase price of certain parcels is not subject to an increase or decrease as a result of certain circumstances; authorizing the board of trustees to direct the Department of Environmental Protection to exercise eminent domain for the acquisition of certain conservation parcels under certain circumstances; authorizing the Department of Environmental Protection to exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide such service; authorizing the board to direct the Department of Environmental Protection to purchase lands on an immediate basis using specified funds; authorizing the board of trustees to waive or modify all procedures required for such land acquisition; providing that title to certain lands held jointly by the board and a water management district meet the standards necessary for

ownership by the board; defining the term "projects" for purposes of land acquisition; creating s. 253.0251, F.S.; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies; amending s. 253.03, F.S.; deleting provisions directing the board to adopt by rule an annual administrative fee for certain leases and similar instruments; revising the criteria by which specified structures have the right to continue submerged land leases; directing the board to adopt by rule an annual administrative fee for certain leases and instruments; authorizing nonwater-dependent uses for submerged lands; amending s. 253.031, F.S.; providing for the Department of Environmental Protection to maintain documents concerning all state lands; deleting an obsolete provision; amending s. 253.034, F.S.; authorizing the department to submit certain state-owned lands to the board for consideration; requiring that all nonconservation land use plans are managed to provide the greatest benefit to the state; deleting provisions requiring an analysis of natural or cultural resources as part of a nonconservation land use plan; specifying that certain management and short-term and long-term goals for the conservation of plant and animal species apply to conservation lands; providing conditions under which the Secretary of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their

designees are required to submit land management plans to the board; requiring that updated land management plans identify conservation lands that are no longer needed for conservation purposes; deleting provisions directing the board to make certain determinations regarding the surplus and disposition of state lands; deleting provisions requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; amending s. 253.0341, F.S.; deleting provisions requiring that county or local government requests for the state to surplus conservation or nonconservation lands be expedited; directing the board to make certain determinations regarding the surplus and disposition of state lands; providing that lands acquired before a certain date using specified proceeds are deemed to have been acquired for conservation purposes; providing that certain lands used by the Department of Corrections, the Department of Management Services, and the Department of Transportation may not be designated as lands acquired for conservation purposes; requiring updated land management plans to identify conservation lands that are no longer needed and could be disposed of; requiring the Division of State Lands to review state-owned conservation lands and determine if such lands are no longer needed and could be disposed of and to

submit a list of such lands to the Acquisition and Restoration Council; requiring the council to provide certain recommendations to the board regarding conservation lands; requiring the division to review certain nonconservation lands and make recommendations to the board as to whether such lands should be retained in public ownership or disposed of; deleting an obsolete provision; requiring that buildings and parcels of land be offered for lease to state agencies, state universities, and Florida College System institutions before being offered for lease or sale to a local or federal unit of government or a private party; providing for the valuation and disposition of surplus lands; providing for the deposit of proceeds from the sale of such lands; authorizing the board to adopt rules; amending s. 253.111, F.S.; revising provisions requiring the board to afford an opportunity to local governments to purchase certain lands; amending s. 253.42, F.S.; authorizing individuals or entities to submit requests to the Division of State Lands to exchange state-owned land for privately held land; requiring the state to retain permanent conservation easements over the state-owned land and all or a portion of the privately held land; requiring the division to review requests and provide recommendations to the Acquisition and Restoration Council; providing applicability; directing the board to consider a request if certain conditions are met; providing special consideration

for certain requests; providing that such lands are subject to inspection; amending s. 253.782, F.S.; deleting a provision directing the Department of Environmental Protection to retain ownership of and maintain lands or interests in land owned by the board; amending s. 253.7821, F.S.; assigning the Cross Florida Greenways State Recreation and Conservation Area to the Department of Environmental Protection rather than the Office of Greenways Management within the Office of the Secretary; creating s. 253.87, F.S.; directing the Department of Environmental Protection to include certain county, municipal, state, and federal lands in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database and to update the database at specified intervals; requiring counties, municipalities, and financially disadvantaged small communities to submit a list of certain lands to the department by a specified date and at specified intervals; directing the department to conduct a study and submit a report to the Governor and the Legislature on the technical and economic feasibility of including certain lands in the database or a similar public lands inventory; amending s. 259.01, F.S.; renaming the "Land Conservation Act of 1972" as the "Land Conservation Program"; repealing s. 259.02, F.S., relating to issuance of state bonds for certain land projects; amending s. 259.03, F.S.; revising the definition of the term "water resource development project" to include construction of

treatment, transmission, and distribution facilities; amending s. 259.032, F.S.; conforming cross-references; revising provisions relating to the management of conservation and recreation lands to conform with changes made by the act; revising duties of the Acquisition and Restoration Council; amending s. 259.035, F.S.; requiring recipients of funds from the Land Acquisition Trust Fund to annually report certain performance measures to the Department of Environmental Protection rather than the Division of State Lands; amending s. 259.036, F.S.; revising the composition of the regional land management review team; providing for the Department of Environmental Protection rather than the Division of State Lands to act as the review team coordinator; revising requirements for conservation and recreation land management reviews and plans; amending s. 259.037, F.S.; removing the director of the Office of Greenways and Trails from the Land Management Uniform Accounting Council; repealing s. 259.041, F.S., relating to the acquisition of state-owned lands for preservation, conservation, and recreation purposes; amending s. 259.047, F.S.; revising provisions relating to the acquisition of land on which an agricultural lease exists to conform with changes made by the act; amending s. 259.101, F.S.; conforming cross-references; revising provisions relating to alternate use of lands acquired under the Florida Preservation 2000 Act to conform with changes made by the act;

deleting provisions for alternatives to fee simple acquisition of such lands to conform with changes made by the act; amending s. 259.105, F.S.; deleting provisions requiring the advancement of certain goals and objectives of imperiled species management on state lands to conform with changes made by the act; conforming cross-references; revising provisions directing the Acquisition and Restoration Council to give increased priority to certain projects when developing proposed rules relating to Florida Forever funding and additions to the Conservation and Recreation Lands list; deleting provisions requiring that such rules be submitted to the Legislature for review; amending s. 259.1052, F.S.; deleting provisions authorizing the Department of Environmental Protection to distribute revenues from the Florida Forever Trust Fund for the acquisition of a portion of Babcock Crescent B Ranch; amending ss. 73.015, 125.355, 166.045, 215.82, 215.965, 253.027, 253.7824, 260.015, 260.016, 369.317, 373.139, 375.031, 375.041, 380.05, 380.055, 380.508, 589.07, 944.10, 957.04, 985.682, and 1013.14, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 253.025, Florida Statutes, is amended to read:

253.025 Acquisition of state lands ~~for purposes other than~~

~~preservation, conservation, and recreation~~.—

(1)(a) ~~Neither~~ The Board of Trustees of the Internal Improvement Trust Fund or ~~nor~~ its duly authorized agent may not ~~shall~~ commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless ~~the provisions of~~ this section has ~~have~~ been fully complied with.

(b) Except for the requirements of subsections (4), (11), and (22), if the public's interest is reasonably protected, the board of trustees may:

1. Waive any requirements of this section.

2. Waive any rules adopted pursuant to this section, notwithstanding chapter 120.

3. Substitute other reasonably prudent procedures.

(c) ~~However,~~ The board of trustees may also substitute federally mandated acquisition procedures for the provisions of this section if ~~when~~ federal funds are available and will be used ~~utilized~~ for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(d) Notwithstanding ~~any provisions in~~ this section ~~to the contrary~~, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(e) The title to lands acquired pursuant to this section shall vest in the board of trustees pursuant to s. 253.03(1) unless otherwise provided by law, and all such titled lands shall be administered pursuant to s. 253.03.

(2) Before ~~Prior to~~ any state agency initiates ~~initiating~~ any land acquisition, except for ~~as pertains to~~ the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) The board of trustees is authorized to adopt rules to implement this section, including rules governing the terms and conditions of land purchases. The rules shall address, with specificity, but need not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents, and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest in acquiring.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(4) An agreement to acquire real property for the purposes described in this chapter, chapter 260, or chapter 375, title to which will vest in the board of trustees, may not bind the state before the agreement is reviewed and approved by the Department of Environmental Protection as complying with this section and any rules adopted pursuant to this section. If any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and the acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a Florida Forever project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but are not limited to, Florida Forever projects when title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

If approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project. Approval of the board of trustees is also required for Florida Forever projects the department recommends acquiring pursuant to subsections (11) and (22). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to

chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program. If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement shall be submitted to and approved by the Legislative Budget Commission.

(5) ~~(3)~~ Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(6) ~~(4)~~ For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(7) ~~(5)~~ Evidence of marketable title shall be provided by the landowner before ~~prior to~~ the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, if ~~where~~ the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.

(8) ~~(6)~~ Before approval by the board of trustees, or, when applicable, the Department of Environmental Protection, of any

agreement to purchase land pursuant to this chapter, chapter 259, chapter 260, or chapter 375, and before ~~Prior to~~ negotiations with the parcel owner to purchase any other land ~~pursuant to this section~~, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.

(b) ~~(a)~~ Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, if both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If ~~When~~ a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the division, or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

(c) ~~(b)~~ Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. ~~The board of trustees shall approve qualified fee appraisal organizations.~~ All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a ~~member of an approved appraisal organization or by a~~ state-certified appraiser. The board of trustees shall adopt rules for selecting individuals to perform

appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, before ~~prior to~~ contracting with the agency or a participant in a multiparty agreement, submit to the ~~that~~ agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(d) The fee appraiser and the review appraiser for the agency may not act in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition.

(e) ~~(c)~~ The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the Minimum Technical Standards for Land Surveying in Florida published by the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time before ~~prior to~~ submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time before ~~prior to~~ conveyance of title to the

parcel. ~~The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~

(f)~~(d)~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The Department of Environmental Protection may disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. However, the private landowner must agree to maintain the confidentiality of the reports or information. ~~However,~~ The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the department ~~division~~ to purchase and hold property for subsequent resale to the board of trustees ~~division~~. In addition, the department ~~division~~ may use, as its own, appraisals obtained by a public agency or nonprofit organization, if ~~provided~~ the appraiser is selected from the department's ~~division's~~ list of appraisers and the appraisal is reviewed and approved by the department ~~division~~. For ~~the~~ purposes of this paragraph, the term "nonprofit organization" means an organization that ~~whose purpose is the preservation of~~

~~natural resources, and which~~ is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and, for purposes of the acquisition of conservation lands, an organization whose purpose must include the preservation of natural resources. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(g)~~(c)~~ Before ~~Prior to~~ acceptance of an appraisal, the agency shall submit a copy of such report to the division ~~of State Lands~~. The division shall review such report for compliance with the rules of the board ~~of trustees~~. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(h)~~(f)~~ The appraisal report shall be accompanied by the sales history of the parcel for at least the previous ~~prior~~ 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or it is ~~its~~ cost prohibitive compared to the value of a parcel, the sales history may be waived by the board of trustees. The board of trustees shall adopt a rule specifying guidelines for waiver of a sales history.

(i)~~(g)~~ The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(j)1. The board of trustees shall adopt by rule the method

for determining the value of parcels sought to be acquired by state agencies pursuant to this section. An offer by a state agency may not exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. For a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly pursuant to subparagraph 1.

3. This paragraph does not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

Notwithstanding this subsection, on behalf of the board of trustees and before the appraisal of parcels approved for purchase under this chapter or chapter 259, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees or, if applicable, the Secretary of Environmental Protection, and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an

appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(9) ~~(7)~~ (a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, contracts for real estate commission fees, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the Department of Environmental Protection may use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

~~(c)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.~~

~~2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.~~

~~3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.~~

(e)~~(f)~~ When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f)~~(g)~~ The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement is ~~shall~~ not ~~be~~ considered a part of the purchase price.

(g)~~(h)~~ A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency.

Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Department of Environmental Protection ~~Division of State Lands~~ with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h)~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of Environmental Protection ~~Division of State Lands~~ of the agreement for purchase and the required documentation, the board of trustees or, if ~~when~~ the purchase price does not exceed $100,000, its designee shall ~~either~~ reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(10)~~(8)~~(a) A ~~No~~ dedication, gift, grant, or bequest of lands and appurtenances may not be accepted by the board of

trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state ~~either~~ in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(b) A ~~No~~ deed filed in the public records to donate lands to the board of trustees does not ~~of the Internal Improvement Trust Fund shall be construed to~~ transfer title to or vest title in the board of trustees unless ~~there shall also be filed in the public records,~~ a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands is also filed in the public records.

(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees may not be increased or decreased as a result of a change in zoning or permitted land uses, or changes in market forces or prices that occur within 1 year after the date the Department of

Environmental Protection or the board of trustees approves a contract to purchase the parcel.

(11) Notwithstanding this section, the board of trustees, by an affirmative vote of at least three members, voting at a regularly scheduled and advertised meeting, may direct the Department of Environmental Protection to exercise the power of eminent domain pursuant to chapters 73 and 74 to acquire any conservation parcel identified on the acquisition list established by the Acquisition and Restoration Council and approved by the board of trustees pursuant to chapter 259. However, the board of trustees may only make such a vote under the following circumstances:

(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.

(b) The land is of special importance to the state because of one or more of the following reasons:

1. It involves an endangered or natural resource and is in imminent danger of development.

2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.

3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.

Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to

provide that service. If the Department of Transportation or a water management district enters into such a contract with the department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.

(12) ~~(9)~~ Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. ~~The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.~~

(13) ~~(10)~~ The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(14) ~~(11)~~ The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days after ~~following~~ the board of trustees' final approval ~~by the board~~ of land acquisitions under this section. If an audit is conducted,

the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(15) ~~(12)~~ The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out ~~the purposes of~~ this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

(16) ~~(13)~~ (a) The board of trustees ~~of the Internal Improvement Trust Fund~~ may deed property to the Department of Agriculture and Consumer Services, so that the Department of Agriculture and Consumer Services is ~~department shall be~~ able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion does ~~shall~~ not apply to lands acquired for conservation purposes in accordance with s. 253.0341(1) or (2) ~~253.034(6)(a) or (b)~~.

(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of the sale shall be deposited ~~go~~ into the Department of Agriculture and Consumer Services Incidental Trust Fund. The Legislature may, at the request of the Department of Agriculture and Consumer Services ~~department~~, appropriate such money within the trust fund to the Department of Agriculture and Consumer Services ~~department~~ for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land from any sale, conveyance, exchange, trade, or transfer conducted pursuant to ~~as provided for in~~ this subsection shall be deposited into ~~placed within~~ the Department of Agriculture and Consumer Services ~~department's~~ Incidental Trust Fund.

(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. If ~~In the instance where~~ an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.

(17)~~(14)~~ Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(18)~~(15)~~ Pursuant to s. 944.10, the Department of

Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

(19)~~(16)~~ Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands, including any ~~the~~ cattle-dipping vats ~~vat~~.

(20)~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

(21)~~(18)~~ The board of trustees may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against

encroachment.

(22) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

(23) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant to s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding this section or related rules.

(24) For purposes of this section, the term "projects" means those Florida Forever projects selected pursuant to chapter 259.

Section 2. Section 253.0251, Florida Statutes, is created to read:

253.0251 Alternatives to fee simple acquisition.—

(1) The Legislature finds that:

(a) With the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds.

(b) The state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. In addition, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with

less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, when appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(2) All applications for alternatives to fee simple acquisition projects shall identify, within their acquisition plans, projects that require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For purposes of this section, the phrase "alternatives to fee simple acquisition" includes, but is not limited to, purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy

goals listed in subsection (1). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this section shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(3) When developing the acquisition plan pursuant to s. 259.105, the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less than fee simple acquisitions. Therefore, any proposed less than fee simple acquisition may not be rejected simply because public access would be limited.

(4) The Department of Environmental Protection and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(5) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee

simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(6) The public agency that has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

Section 3. Subsection (2), paragraph (c) of subsection (7), and subsections (11) and (15) of section 253.03, Florida Statutes, are amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(2) It is the intent of the Legislature that the board of trustees ~~of the Internal Improvement Trust Fund~~ continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The board of trustees ~~of the Internal Improvement Trust Fund~~ is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. ~~The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments, to be charged agencies that are leasing land from it. This~~

~~annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.~~

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the state ~~of Florida~~ and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a listed structure ~~so listed~~ falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and ~~either~~ repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(11) The board of trustees ~~of the Internal Improvement Trust Fund~~ may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts,

leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district. The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments to be charged to agencies that are leasing land from the board of trustees. This annual administrative fee assessed for all leases or similar instruments is to compensate the board of trustees for costs incurred in the administration and management of such leases or similar instruments.

(15) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall encourage the use of sovereign submerged lands for public access and water-dependent uses which may include related minimal secondary nonwater-dependent uses ~~and public access~~.

Section 4. Subsections (8) and (9) of section 253.031, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and present subsections (2) and (7) of that section are amended, to read:

253.031 Land office; custody of documents concerning land; moneys; plats.—

(2) The board ~~of trustees of the Internal Improvement Trust Fund~~ shall have custody of, and the department shall maintain, all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.

~~(7) The board shall receive all of the tract books, plats, and such records and papers heretofore kept in the United States Land Office at Gainesville, Alachua County, as may be surrendered by the Secretary of the Interior; and the board shall carefully and safely keep and preserve all of said tract books, plats, records, and papers as part of the public records of its office, and at any time allow any duly accredited authority of the United States, full and free access to any and all of such tract books, plats, records, and papers, and shall furnish any duly accredited authority of the United States with copies of any such records without charge.~~

Section 5. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund,

public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands. The Acquisition and Restoration Council ~~created in s. 259.035~~ shall recommend rules to the board of trustees, and the board of trustees shall adopt rules necessary to carry out the purposes of this section.

(2) As used in this section, the term ~~following phrases have the following meanings~~:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are used ~~utilized~~ in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers may ~~shall~~ not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes

both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using entity shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing entity.

(c) "Conservation lands" means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or

archaeological or historic preservation may ~~shall~~ not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that do not possess ~~no~~ significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

(d) "Public access," as used in this chapter and chapter 259, means access by the general public to state lands and water, including vessel access made possible by boat ramps, docks, and associated support facilities, where compatible with conservation and recreation objectives.

Lands acquired by the state as a gift, through donation, or by any other conveyance for which no consideration was paid, and which are not managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation under a land management plan approved by the board of trustees are not conservation lands.

(3) Recognizing that recreational trails purchased with

rails-to-trails funds pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that if the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to former s. 259.101(3)(g), Florida Statutes 2014, or s. 259.105(3)(h). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) A ~~No~~ management agreement, lease, or other instrument authorizing the use of lands owned by the board of trustees may not ~~of the Internal Improvement Trust Fund shall~~ be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the board of trustees ~~of the Internal Improvement Trust Fund~~ if the improvement is a transportation facility. If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(b) for conservation lands or under paragraph (5)(i) for nonconservation lands, the Department of Environmental Protection may submit the lands to the board of trustees to consider whether to require the managing or leasing entity to release its interest in the lands and to consider

whether to surplus the lands. If the state-owned land is determined to be surplus, the board of trustees may require an entity to release its interest in the lands. An entity managing or leasing state-owned lands from the board of trustees may not sublease such lands without prior review by the Division of State Lands and, for conservation lands, by the Acquisition and Restoration Council ~~created in s. 259.035~~. All management agreements, leases, or other instruments authorizing the use of lands owned by the board of trustees shall be reviewed for approval by the board of trustees or its designee. The council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each manager of conservation lands shall submit to the Division of State Lands a land management plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees and in accordance with ~~the provisions of~~ s. 259.032. Each manager of conservation lands shall also update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within 1 year after ~~of~~ the addition of significant new lands. Each manager of nonconservation lands shall submit to the Division of State Lands a land use plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of ~~by~~ the board of trustees. The division shall review each plan for compliance with the requirements of this subsection and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. All nonconservation land use plans, whether for single-use or multiple-use properties, shall be managed to

provide the greatest benefit to the state ~~include an analysis of the property to determine if any significant natural or cultural resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features. If such resources occur on the property, the manager shall consult with the Division of State Lands and other appropriate agencies to develop management strategies to protect such resources. Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan~~. Plans for managed areas larger than 1,000 acres shall contain an analysis of the multiple-use potential of the property~~,~~ which includes ~~analysis shall include~~ the potential of the property to generate revenues to enhance the management of the property. In addition ~~Additionally~~, the plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. If ~~In those cases where~~ a newly acquired property has a valid conservation plan that was developed by a soil and conservation district, such plan shall be used to guide management of the property until a formal land use plan is completed.

(a) State conservation lands shall be managed to ensure the conservation of the state's plant and animal species and to

ensure the accessibility of state lands for the benefit and enjoyment of all people of the state, both present and future. Each land management plan for state conservation lands shall provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals. Short-term goals shall be achievable within a 2-year planning period, and long-term goals shall be achievable within a 10-year planning period. These short-term and long-term management goals shall be the basis for all subsequent land management activities.

(b) Short-term and long-term management goals for state conservation lands shall include measurable objectives for the following, as appropriate:

1. Habitat restoration and improvement.

2. Public access and recreational opportunities.

3. Hydrological preservation and restoration.

4. Sustainable forest management.

5. Exotic and invasive species maintenance and control.

6. Capital facilities and infrastructure.

7. Cultural and historical resources.

8. Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

(c) The land management plan shall, at a minimum, contain the following elements:

1. A physical description of the land.

2. A quantitative data description of the land which includes an inventory of forest and other natural resources; exotic and invasive plants; hydrological features; infrastructure, including recreational facilities; and other

significant land, cultural, or historical features. The inventory shall reflect the number of acres for each resource and feature, when appropriate. The inventory shall be of such detail that objective measures and benchmarks can be established for each tract of land and monitored during the lifetime of the plan. All quantitative data collected shall be aggregated, standardized, collected, and presented in an electronic format to allow for uniform management reporting and analysis. The information collected by the Department of Environmental Protection pursuant to s. 253.0325(2) shall be available to the land manager and his or her assignee.

3. A detailed description of each short-term and long-term land management goal, the associated measurable objectives, and the related activities that are to be performed to meet the land management objectives. Each land management objective must be addressed by the land management plan, and if ~~where~~ practicable, a ~~no~~ land management objective may not ~~shall~~ be performed to the detriment of the other land management objectives.

4. A schedule of land management activities which contains short-term and long-term land management goals and the related measurable objective and activities. The schedule shall include for each activity a timeline for completion, quantitative measures, and detailed expense and manpower budgets. The schedule shall provide a management tool that facilitates development of performance measures.

5. A summary budget for the scheduled land management activities of the land management plan. For state lands containing or anticipated to contain imperiled species habitat, the summary budget shall include any fees anticipated from

public or private entities for projects to offset adverse impacts to imperiled species or such habitat, which fees shall be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat. The summary budget shall be prepared in such manner that it facilitates computing an aggregate of land management costs for all state-managed lands using the categories described in s. 259.037(3).

(d) Upon completion, the land management plan must ~~will~~ be transmitted to the Acquisition and Restoration Council for review. The ~~Acquisition and Restoration~~ council shall have 90 days after receipt of the plan to review the plan and submit its recommendations to the board of trustees. During the review period, the land management plan may be revised if agreed to by the primary land manager and the ~~Acquisition and Restoration~~ council taking into consideration public input. ~~If the Acquisition and Restoration Council fails to make a recommendation for a land management plan, the secretary of the Department of Environmental Protection, Commissioner of Agriculture, or Executive Director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.~~ The land management plan becomes effective upon approval by the board of trustees.

(e) Land management plans are to be updated every 10 years on a rotating basis. Each updated land management plan must identify conservation lands under the plan, in part or in whole, that are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement.

(f) In developing land management plans, at least one

public hearing shall be held in any one affected county.

(g) The Division of State Lands shall make available to the public an electronic copy of each land management plan for parcels that exceed 160 acres in size. The division ~~of State Lands~~ shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules adopted ~~established~~ by the board of trustees pursuant to this section. The Acquisition and Restoration Council shall also consider the propriety of the recommendations of the managing entity with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing entity, and the possibility of disposal of the property by the board of trustees. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan. If the ~~Acquisition and Restoration~~ council fails to make a recommendation for a land management plan, the Secretary ~~of the Department~~ of Environmental Protection, Commissioner of Agriculture, or executive director of the Fish and Wildlife Conservation Commission or their designees shall submit the land management plan to the board of trustees.

(h) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall consider the land management plan submitted by each entity and the recommendations of the Acquisition and Restoration Council and the Division of State Lands and shall

approve the plan with or without modification or reject such plan. The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(i)1. State nonconservation lands shall be managed to provide the greatest benefit to the state. Each land use plan shall, at a minimum, contain the following elements:

a. A physical description of the land to include any significant natural or cultural resources as well as management strategies developed by the land manager to protect such resources.

b. A desired development outcome.

c. A schedule for achieving the desired development outcome.

d. A description of both short-term and long-term development goals.

e. A management and control plan for invasive nonnative plants.

f. A management and control plan for soil erosion and soil and water contamination.

g. Measureable objectives to achieve the goals identified in the land use plan.

2. Short-term goals shall be achievable within a 5-year planning period and long-term goals shall be achievable within a 10-year planning period.

3. The use or possession of any such lands that is not in accordance with an approved land use plan is subject to termination by the board of trustees.

4. Land use plans submitted by a manager shall include

reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan.

~~(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall determine whether the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall determine whether the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.~~

~~(a) For the purposes of this subsection, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes.~~

~~(b) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those~~

~~specifically managed for conservation or recreation purposes, or the State University System or the Florida College System may not be designated as having been purchased for conservation purposes.~~

~~(c) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each manager shall evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the council shall review and recommend to the board whether such lands should be retained in public ownership or disposed of by the board. For nonconservation lands, the division shall review such lands and recommend to the board whether such lands should be retained in public ownership or disposed of by the board.~~

~~(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) must be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.~~

~~(e) Before any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.~~

~~(f) In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government~~

~~in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 45 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; governmental, judicial, or recreational centers; and affordable housing meeting the criteria of s. 420.0004(3). County or local government requests for surplus lands shall be expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board decides the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest must then be available for sale on the private market.~~

~~(g) The sale price of lands determined to be surplus pursuant to this subsection and s. 253.82 shall be determined by the division, which shall consider an appraisal of the property, or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.~~

~~1. A written valuation of land determined to be surplus pursuant to this subsection and s. 253.82, and related documents~~

~~used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~a. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board.~~

~~b. Before expiration of the exemption, the division may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:~~

~~(I) During negotiations for the sale or exchange of the land.~~

~~(II) During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process.~~

~~(III) When the passage of time has made the conclusions of value invalid.~~

~~(IV) When negotiations or marketing efforts concerning the land are concluded.~~

~~2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.~~

~~(h) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. The division may use agents, as authorized by s. 253.431, for this process. Any parcels unsuccessfully offered for sale by competitive bid, and~~

~~parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.~~

~~(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or are no longer needed. The board may require an agency to release its interest in such lands. A state agency, county, or local government that has requested the use of a property that was to be declared as surplus must secure the property under lease within 90 days after being notified that it may use such property.~~

~~(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph are not required to be offered to local or state governments as provided in paragraph (f).~~

~~(k) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.~~

~~(l) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the~~

~~Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.~~

~~(m) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.~~

~~(n) Notwithstanding this subsection, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.~~

~~(o) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.~~

~~(p) The board may adopt rules to administer this section which may include procedures for administering surplus land requests and criteria for when the division may approve requests to surplus nonconservation lands on behalf of the board.~~

(6)~~(7)~~ This section does ~~shall~~ not ~~be construed so as to~~ affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the board of trustees ~~of the Internal Improvement Trust Fund~~ of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and

purposes.

(7)~~(8)~~(a) The Legislature recognizes the value of the state's conservation lands as water recharge areas and air filters.

(b) If state-owned lands are subject to annexation procedures, the Division of State Lands must notify the county legislative delegation of the county in which the land is located.

(8)~~(9)~~ Land management plans required to be submitted by the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Families, or the Department of Education are not subject to ~~the provisions for~~ review by the Acquisition and Restoration Council ~~or its successor described in subsection (5)~~. Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the board of trustees ~~of the Internal Improvement Trust Fund~~ for consideration. The board of trustees ~~of the Internal Improvement Trust Fund~~ shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board of trustees.

(9)~~(10)~~ The following additional uses of conservation lands acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be

authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized if ~~where~~:

(a) The use is not inconsistent with the management plan for such lands;

(b) The use is compatible with the natural ecosystem and resource values of such lands;

(c) The ~~proposed~~ use is appropriately located on such lands and if ~~where~~ due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be returned to the lead managing entity in accordance with s. 259.032(9)(c).

(10)~~(11)~~ Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements or resource conservation agreements. Lands designated as eligible under this

subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

(11)~~(12)~~ Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

~~(13) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel~~

~~meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.~~

Section 6. Section 253.0341, Florida Statutes, is amended to read:

253.0341 Surplus of state-owned lands ~~to counties or local governments. Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.~~

(1) The board of trustees shall determine which lands, the title to which is vested in the board, may be surplused. For all conservation lands, the Acquisition and Restoration Council shall make a recommendation to the board of trustees, and the board of trustees shall determine whether the lands are no longer needed for conservation purposes. If the board of trustees determines the lands are no longer needed for conservation purposes, it may dispose of such lands by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board of trustees must determine by an affirmative vote of

at least three members that the exchange will result in a net positive conservation benefit. For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands by an affirmative vote of at least three members. Local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplused without the consent of all joint owners ~~The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request~~.

(2) For purposes of this section, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board of trustees which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes ~~County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation lands shall be considered by the board within 120 days of the board's receipt~~

~~of the request~~.

(3) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board of trustees must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections; the Department of Management Services for use as state offices; the Department of Transportation, except those lands specifically managed for conservation or recreation purposes; the State University System; or the Florida College System may not be designated as having been acquired for conservation purposes ~~A local government may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects as defined in s. 373.019, public facilities such as schools, fire and police facilities, and affordable housing. The request shall comply with the requirements of subsection (1) if the lands are nonconservation lands or subsection (2) if the lands are conservation lands. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under the provisions of s. 125.379 or s. 166.0451~~.

(4)(a) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of

trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees ~~Notwithstanding the requirements of this section and the requirements of s. 253.034 which provides a surplus process for the disposal of state lands, the board shall convey to Miami-Dade County title to the property on which the Graham Building, which houses the offices of the Miami-Dade State Attorney, is located. By January 1, 2008, the board shall convey fee simple title to the property to Miami-Dade County for a consideration of one dollar. The deed conveying title to Miami-Dade County must contain restrictions that limit the use of the property for the purpose of providing workforce housing as defined in s. 420.5095, and to house the offices of the Miami-Dade State Attorney. Employees of the Miami-Dade State Attorney and the Miami-Dade Public Defender who apply for and meet the income qualifications for workforce housing shall receive preference over other qualified applicants~~.

(b) At least every 10 years, the Division of State Lands shall review all state-owned conservation lands titled to the board of trustees to determine whether any such lands are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement. After such review, the division shall submit a list of such lands, including additional conservation lands identified in an updated land management plan pursuant to s. 253.034(5), to the Acquisition and Restoration Council.

Within 9 months after receiving the list, the council shall provide recommendations to the board of trustees as to whether any such lands are no longer needed for conservation purposes and could be disposed of in fee simple or with the state retaining a permanent conservation easement. After reviewing such list and considering such recommendations, if the board of trustees determines by an affirmative vote of at least three members that any such lands are no longer needed for conservation purposes, the board of trustees shall dispose of the lands in fee simple or with the state retaining a permanent conservation easement.

(c) At least every 10 years, the Division of State Lands shall review all encumbered and unencumbered nonconservation lands titled to the board of trustees and recommend to the board of trustees whether any such lands should be retained in public ownership or disposed of by the board of trustees. The board of trustees may dispose of nonconservation lands under this paragraph by a majority vote of the members.

(5) Conservation lands owned by the board of trustees which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to s. 253.034(5) must be reviewed by the Acquisition and Restoration Council for its recommendation as to whether such lands should be disposed of by the board of trustees.

(6) Before any decision by the board of trustees to surplus conservation lands, the Acquisition and Restoration Council shall review and make recommendations to the board of trustees concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with

the resource values of and management objectives for such lands.

(7) In reviewing conservation lands owned by the board of trustees, the Acquisition and Restoration Council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board of trustees whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. This subsection does not limit the provisions of ss. 253.111 and 253.115. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, any surplusing determination involving other governmental agencies shall be made when the board of trustees decides the best public use of the lands. Surplus properties in which governmental agencies have not expressed interest must then be available for sale on the private market.

(8) Before a facility or parcel of nonconservation land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 45 days after the offer for lease of a surplus building or parcel, a state agency, state university, or Florida College System institution that requests the lease must submit a plan to the board of trustees that includes a description of the proposed use, including future use, of the building or parcel of land. The board of trustees must review and approve the plan before approving the lease. The state agency plan must, at a minimum,

include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria adopted by rule of the board of trustees. The board of trustees or its designee shall compare the estimated value of the facility or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 to implement this section. A state agency or local government that has requested the use of a property that was to be declared as surplus must secure the property with a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.

(9) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker's opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property's value, if any.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The exemption expires 2 weeks before the contract or

agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.

2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:

a. During negotiations for the sale or exchange of the land;

b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;

c. When the passage of time has made the conclusions of value invalid; or

d. When negotiations or marketing efforts concerning the land are concluded.

(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.

(10) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the

sale.

(11) After reviewing the recommendations of the Acquisition and Restoration Council, the board of trustees shall determine whether conservation lands identified for surplus should be held for other public purposes or are no longer needed. The board of trustees may require an agency to release its interest in such lands. A state entity, state agency, local government, or state university or Florida College System institution that has requested the use of a property that was to be declared as surplus must secure the property under a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.

(12) Requests to surplus lands may be made by any public or private entity or person and shall be determined by the board of trustees. All requests to surplus conservation lands shall be submitted to the lead managing agency for review and recommendation to the Acquisition and Restoration Council, and all requests to surplus nonconservation lands shall be submitted to the Division of State Lands for review and recommendation to the board of trustees. The lead managing agencies shall review such requests and make recommendations to the council within 90 days after receipt of the requests. Any requests to surplus conservation lands that are not acted upon within the 90-day period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council. Requests to surplus lands shall be considered by the board of trustees within 60 days after receipt of the requests from the council or division. Requests to surplus lands pursuant to this subsection are not required to be offered to local or state governments as provided

in subsection (7) or subsection (8).

(13) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.

(14) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.

(15) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.

(16) Notwithstanding this section, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(17) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the Acquisition and Restoration Council.

(18) The board of trustees may adopt rules to administer this section, including procedures for administering surplus land requests and criteria for when the Division of State Lands may approve requests to surplus nonconservation lands on behalf of the board of trustees.

(19) Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local

government under s. 125.379 or s. 166.0451.

Section 7. Section 253.111, Florida Statutes, is amended to read:

253.111 Notice to county and municipality ~~board of county commissioners~~ before sale.—The Board of Trustees of the Internal Improvement Trust Fund ~~of the state~~ may not sell any land to which it holds ~~they hold~~ title unless and until it affords ~~they afford~~ an opportunity to the county and municipality in which such land is situated to receive such land on the following terms and conditions:

(1) If a request ~~an application~~ is filed with the Division of State Lands ~~board~~ requesting that the board of trustees ~~they~~ sell certain land to which it holds ~~they hold~~ title and the board of trustees decides to sell such land or if the board of trustees, without such request ~~application~~, decides to sell such land, the board of trustees shall, before consideration of any private offers, notify the governing body ~~board of county commissioners~~ of the county and municipality in which such land is situated that such land is available to such county and municipality. Such notification shall be given by registered or express mail, return receipt requested, any commercial delivery service requiring a signed receipt, or electronic notification with return receipt.

(2) The governing bodies ~~board of county commissioners~~ of the county and municipality in which such land is situated shall each~~, within 40 days after receipt of such notification from the board,~~ determine by resolution whether ~~or not~~ it proposes to acquire such land.

(3) If the board of trustees receives, within 45 days after

notice is given to the governing bodies of the county and municipality ~~board of county commissioners~~ pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board of trustees shall ~~forthwith~~ convey to the county or municipality such land at a price that is equal to its ~~appraised~~ market value based on, at the discretion of the Division of State Lands, an appraisal, a comparable sales analysis, or a broker's opinion of value ~~established by generally accepted professional standards for real estate appraisal~~ and subject to such other terms and conditions as the board of trustees determines. If a parcel is located within a municipality, priority consideration shall be given to the municipality over the county.

(4) ~~Nothing in~~ This section does not restrict ~~restricts~~ any right otherwise granted to the board of trustees by this chapter to convey land to which it holds ~~they hold~~ title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. For purposes of this section, the term ~~word~~ "land" ~~as used in this act~~ means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.

(5) If any riparian owner exists with respect to any land to be sold by the board of trustees, such riparian owner shall have a right to secure such land, which right is prior in interest to the right in the county and municipality created by this section, provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the board of trustees. Such riparian owner may waive this prior right, in which case this section

shall apply.

(6) This section does not apply to:

(a) Any land exchange approved by the board of trustees;

(b) The conveyance of any lands located within the Everglades Agricultural Area; or

(c) Lands managed pursuant to ss. 253.781-253.785.

Section 8. Section 253.42, Florida Statutes, is amended to read:

253.42 Board of trustees may exchange lands. ~~The provisions of~~ This section applies ~~apply~~ to all lands owned by, vested in, or titled in the name of the board of trustees whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(1) The board of trustees may exchange any lands owned by, vested in, or titled in its ~~the~~ name ~~of the board~~ for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose. For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board of trustees shall require an exchange of equal value. Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.

(3) The board of trustees shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money the board of trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of equalizing the value of the exchanged property. The board of trustees is authorized to make and enter into contracts or agreements for such purpose or purposes.

(4)(a) A person who owns land contiguous to state-owned land titled to the board of trustees may submit a request to the Division of State Lands to exchange all or a portion of the privately owned land for all or a portion of the state-owned land, whereby the state retains a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. State-owned land exchanged pursuant to this subsection shall be contiguous to the privately owned land upon which the state retains a permanent conservation

easement. The division may submit such request to the Acquisition and Restoration Council for review. If the division submits a request to the council, the council shall provide recommendations to the division. After receiving the council's recommendations, the division shall review the request and the council's recommendations and may provide recommendations to the board of trustees. This subsection does not apply to state-owned sovereign submerged land.

(b) After receiving a request and the division's recommendations, the board of trustees shall consider such request and recommendations and may approve the request if:

1. At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.

2. The approval does not result in a violation of the terms of a preexisting lease or agreement by the board of trustees, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.

3. For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a positive conservation benefit.

4. The approval does not conflict with any existing flowage easement.

5. The request is approved by three or more members of the board of trustees.

(c) Special consideration shall be given to a request that maintains public access for any recreational purpose allowed on

the state-owned land at the time the request is submitted to the board of trustees. A person who maintains public access pursuant to this paragraph is entitled to the limitation on liability provided in s. 375.251.

(d) Land subject to a permanent conservation easement granted pursuant to this subsection is subject to inspection by the Department of Environmental Protection to ensure compliance with the terms of the permanent conservation easement.

Section 9. Subsection (2) of section 253.782, Florida Statutes, is amended to read:

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(2) The Department of Environmental Protection is authorized ~~and directed~~ to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

Section 10. Section 253.7821, Florida Statutes, is amended to read:

253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Department of Environmental Protection ~~Office of the Executive Director~~.—The Cross Florida Greenways State Recreation and Conservation Area is ~~hereby~~ established and ~~is initially~~ assigned to the department ~~Office of Greenways Management within the Office of the Secretary~~. The

department ~~office~~ shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any other authority of the department.

Section 11. Section 253.87, Florida Statutes, is created to read:

253.87 Inventory of state, federal, and local government conservation lands by the Department of Environmental Protection.—

(1) By July 1, 2018, the department shall include in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database all federally owned conservation lands, all lands on which the Federal Government retains a permanent conservation easement, and all lands on which the state retains a permanent conservation easement. The department shall update the database at least every 5 years.

(2) By July 1, 2018, for counties and municipalities, and by July 1, 2019, for financially disadvantaged small communities, as defined in s. 403.1838, and at least every 5 years thereafter, respectively, each county, municipality, and financially disadvantaged small community shall identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. Within 6 months after receiving such list, the department shall add such lands to the FL-SOLARIS database.

(3) By January 1, 2018, the department shall conduct a study and submit a report to the Governor, the President of the

Senate, and the Speaker of the House of Representatives on the technical and economic feasibility of including the following lands in the FL-SOLARIS database or a similar public lands inventory:

(a) All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.

(b) All publicly and privately owned lands for which development rights have been transferred.

(c) All privately owned lands under a permanent conservation easement.

(d) All lands owned by a nonprofit or nongovernmental organization for conservation purposes.

(e) All lands that are part of a mitigation bank.

Section 12. Section 259.01, Florida Statutes, is amended to read:

259.01 Short title.—This chapter shall be known and may be cited as the "Land Conservation Program ~~Act of 1972~~."

Section 13. Section 259.02, Florida Statutes, is repealed.

Section 14. Section 259.03, Florida Statutes, is amended to read:

259.03 Definitions.—As ~~The following terms and phrases when~~ used in this chapter, the term ~~shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning~~:

(1) "Council" means the Acquisition and Restoration ~~that~~ Council established pursuant to s. 259.035.

(2) "Board" means the Governor and Cabinet, sitting as the

Board of Trustees of the Internal Improvement Trust Fund.

(3) "Capital improvement" or "capital project expenditure" means those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified before ~~prior to~~ the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection are ~~shall~~ not ~~be~~ eligible for funding provided in this chapter.

(4) "Department" means the Department of Environmental Protection.

(5) "Division" means the Division of Bond Finance of the State Board of Administration.

(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital

improvements. ~~The term does not include construction of treatment, transmission, or distribution facilities.~~

Section 15. Subsections (6), (7), and (8) and paragraphs (a) and (d) of section (9) of section 259.032, Florida Statutes, are amended to read:

259.032 Conservation and recreation lands.—

(6) Conservation and recreation lands are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025 ~~259.041~~, except as otherwise provided by the Legislature. An inholding or an addition to conservation and recreation lands is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased for conservation and recreation purposes, the project may be removed from the list and the remaining acreage may continue to be purchased. Funds appropriated to acquire conservation and recreation lands may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the department ~~of Environmental Protection~~ to condemn a specific parcel of land and such parcel has already been approved for acquisition, the land may be acquired in accordance with ~~the provisions of~~ chapter 73 or chapter 74, and the funds appropriated to acquire conservation and recreation lands may be used to pay the condemnation award and all costs, including reasonable attorney

fees, associated with condemnation.

(7) All lands managed under this chapter and s. 253.034 shall be:

(a) Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b) Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities ~~compatible with the purposes for which the lands were acquired~~.

~~(c) Managed for the purposes for which the lands were acquired, consistent with paragraph (9)(a).~~

(c)~~(d)~~ Concurrent with its adoption of the annual list of acquisition projects pursuant to s. 259.035, the board ~~of trustees~~ shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; and

8. Recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(d)~~(c)~~ Concurrent with the approval of the acquisition contract pursuant to s. 253.025(4)(c) ~~259.041(3)(c)~~ for any interest in lands except those lands ~~being~~ acquired pursuant to ~~under the provisions of~~ s. 259.1052, the board ~~of trustees~~ shall designate an agency or agencies to manage such lands. The board shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035 to ensure the policy is compatible with conservation or recreation purposes~~, consistent with the purposes for which the lands are acquired~~. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the board ~~of trustees of the Internal Improvement Trust Fund~~ shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(e)~~(f)~~ State agencies designated to manage lands acquired under this chapter or with funds deposited into the Land Acquisition Trust Fund, except those lands acquired under s. 259.1052, may contract with local governments and soil and water

conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the land acquisition trust fund of the lead land managing agency in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(f) ~~(g)~~ Immediately following the acquisition of any interest in conservation and recreation lands, the department ~~of Environmental Protection~~, acting on behalf of the board ~~of trustees~~, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(8)(a) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board ~~of trustees~~, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) Individual management plans required by s. 253.034(5), for parcels over 160 acres, shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local

conservation organization, and a local elected official. If habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management without restricting other uses identified in the management plan. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The areawide public hearing shall be held in the county in which the core parcels are located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (7)(c) ~~(7)(d)~~ shall be available to the public for a period of 30 days before ~~prior to~~ the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 10 years in a form and manner adopted ~~prescribed~~ by rule of the board ~~of trustees~~. Such updates, for parcels over 160 acres, shall be developed with input from an advisory group. Such plans may include transfers of leasehold interests to appropriate conservation organizations or governmental entities designated by the ~~Land Acquisition and~~

~~Management Advisory~~ council ~~or its successor,~~ for uses consistent with the purposes of the organizations and the protection, preservation, conservation, restoration, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d)~~1.~~ For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the priority list developed pursuant to s. 259.105 have been acquired. The department ~~of Environmental Protection~~ shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled to any budget entity or any water management district that has more than one-third of its management plans overdue.

~~2. The requirements of subparagraph 1. do not apply to the individual management plan for the Babcock Crescent B Ranch being acquired pursuant to s. 259.1052. The management plan for the ranch shall be adopted and in place no later than 2 years following the date of acquisition by the state.~~

(e) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034,

and the statutory authority for such use or uses.

2. Key management activities necessary to achieve the desired outcomes, including, but not limited to, providing public access, preserving and protecting natural resources, protecting cultural and historical resources, restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities~~, based on the purposes for which the lands were acquired~~.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value ~~for which the lands were acquired~~. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses and public access that would be compatible with conservation or recreation purposes ~~that would be consistent with the purposes for which the lands were acquired~~.

(f) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the ~~Acquisition and Restoration~~ council,

which shall:

1. Within 60 days after receiving a plan from the Division of State Lands, review each plan for compliance with the requirements of this subsection and with the requirements of the rules adopted ~~established~~ by the board pursuant to this subsection.

2. Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, submit the plan, along with its recommendations and comments, to the board ~~of trustees~~, with recommendations as to whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g) The board ~~of trustees~~ shall consider the individual management plan submitted by each state agency and the recommendations of the ~~Acquisition and Restoration~~ council and the department ~~Division of State Lands~~ and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board ~~of trustees~~ which is not in accordance with an approved individual management plan is subject to termination by the board ~~of trustees~~.

By July 1 of each year, each governmental agency and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(9)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by

protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which they were acquired~~ and for the public to have access to and use of these lands if public access ~~where it is consistent with acquisition purposes and~~ would not harm the resources the state is seeking to protect on the public's behalf.

(d) Up to one-fifth of the funds appropriated for the purposes identified in paragraph (b) shall be reserved by the board ~~of trustees~~ for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (7)(f) ~~(7)(g)~~. The board ~~of trustees~~ shall make these interim funds available immediately upon purchase.

Section 16. Subsection (3) and paragraph (a) of subsection (4) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(3) The council shall provide assistance to the board ~~of trustees~~ in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this

chapter. The council shall, in reviewing such ~~recommendations and~~ plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(b).

(4)(a) By December 1, 2016, the ~~Acquisition and Restoration~~ council shall develop rules defining specific criteria and numeric performance measures needed for lands that are to be acquired for public purpose under the Florida Forever program pursuant to s. 259.105 or with funds deposited into the Land Acquisition Trust Fund pursuant to s. 28(a), Art. X of the State Constitution. These rules shall be reviewed and adopted by the board, then submitted to the Legislature for consideration by February 1, 2017. The Legislature may reject, modify, or take no action relative to the proposed rules. If no action is taken, the rules shall be implemented. Subsequent to their approval, each recipient of funds from the Land Acquisition Trust Fund shall annually report to the department ~~Division of State Lands~~ on each of the numeric performance measures accomplished during the previous fiscal year.

Section 17. Subsections (1), (2), (4), and (5) of section 259.036, Florida Statutes, are amended to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the board ~~of Trustees of the Internal Improvement Trust Fund~~ are being managed for ~~the~~ purposes that are compatible with conservation, preservation, or recreation ~~for which they were acquired and~~ in accordance with a land management plan adopted pursuant to s. 259.032, the board

~~of trustees~~, acting through the department ~~of Environmental Protection~~, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Florida Forest Service of the Department of Agriculture and Consumer Services.

4. One individual from the Fish and Wildlife Conservation Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager, preferably from the local community, mutually agreeable to the state agency representatives.

7. A member or staff from the jurisdictional water management district or ~~of the~~ local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The department ~~staff of the Division of State Lands~~ shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select management areas before ~~prior to~~ the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the department ~~Division of State Lands~~ shall schedule a land management review at least every 5 years. A copy of the review shall be provided to the manager, the department ~~Division of State Lands~~, and the ~~Acquisition and Restoration~~ council. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

(4) In the event a land management plan has not been adopted within the timeframes specified in s. 259.032(8), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which it was acquired~~ and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed in a manner that is compatible with conservation or recreation purposes ~~for the purposes for which they were acquired or~~ in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and

the managing agency must report to the board its reasons for managing the lands as it has.

Section 18. Section 259.037, Florida Statutes, is amended to read:

259.037 Land Management Uniform Accounting Council.—

(1) The Land Management Uniform Accounting Council (LMUAC) is created within the Department of Environmental Protection and shall consist of the director of the Division of State Lands, the director of the Division of Recreation and Parks, and the director of the Office of Coastal and Aquatic Managed Areas~~, and the director of the Office of Greenways and Trails~~ of the department ~~of Environmental Protection~~; the director of the Florida Forest Service of the Department of Agriculture and Consumer Services; the executive director of the Fish and Wildlife Conservation Commission; and the director of the Division of Historical Resources of the Department of State, or their respective designees. Each state agency represented on the LMUAC ~~council~~ shall have one vote. The chair of the LMUAC ~~council~~ shall rotate annually in the foregoing order of state agencies. The agency of the representative serving as chair ~~of the council~~ shall provide staff support for the LMUAC ~~council~~. The Division of State Lands shall serve as the recipient of and repository for the LMUAC's ~~council's~~ documents. The LMUAC ~~council~~ shall meet at the request of the chair.

(2) The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability, or their designees, shall advise the LMUAC ~~council~~ to ensure that appropriate accounting procedures are used ~~utilized~~ and that a uniform method of collecting and reporting accurate costs of

land management activities are created and can be used by all agencies.

(3)(a) All land management activities and costs must be assigned to a specific category, and any single activity or cost may not be assigned to more than one category. Administrative costs, such as planning or training, shall be segregated from other management activities. Specific management activities and costs must initially be grouped, at a minimum, within the following categories:

1. Resource management.
2. Administration.
3. Support.
4. Capital improvements.
5. Recreation visitor services.
6. Law enforcement activities.

Upon adoption of the initial list of land management categories by the LMUAC ~~council~~, agencies assigned to manage conservation or recreation lands shall~~, on July 1, 2000, begin to~~ account for land management costs in accordance with the category to which an expenditure is assigned.

(b) Each reporting agency shall also:

1. Include a report of the available public use opportunities for each management unit of state land, the total management cost for public access and public use, and the cost associated with each use option.

2. List the acres of land requiring minimal management effort, moderate management effort, and significant management effort pursuant to s. 259.032(9)(c). For each category created

in paragraph (a), the reporting agency shall include the amount of funds requested, the amount of funds received, and the amount of funds expended for land management.

3. List acres managed and cost of management for each park, preserve, forest, reserve, or management area.

4. List acres managed, cost of management, and lead manager for each state lands management unit for which secondary management activities were provided.

5. Include a report of the estimated calculable financial benefits to the public for the ecosystem services provided by conservation lands, based on the best readily available information or science that provides a standard measurement methodology to be consistently applied by the land managing agencies. Such information may include, but need not be limited to, the value of natural lands for protecting the quality and quantity of drinking water through natural water filtration and recharge, contributions to protecting and improving air quality, benefits to agriculture through increased soil productivity and preservation of biodiversity, and savings to property and lives through flood control.

(4) The LMUAC ~~council~~ shall provide a report of the agencies' expenditures pursuant to the adopted categories to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

(5) Should the LMUAC ~~council~~ determine that the list of land management categories needs to be revised, it shall meet upon the call of the chair.

(6) Biennially, each reporting agency shall also submit an

operational report for each management area along with an approved management plan. The report should assess the progress toward achieving short-term and long-term management goals of the approved management plan, including all land management activities, and identify any deficiencies in management and corrective actions to address identified deficiencies as appropriate. This report shall be submitted to the Acquisition and Restoration Council and the Division of State Lands for inclusion in its annual report required pursuant to s. 259.036.

Section 19. Section 259.041, Florida Statutes, is repealed.

Section 20. Subsection (2) of section 259.047, Florida Statutes, is amended to read:

259.047 Acquisition of land on which an agricultural lease exists.—

(2) If ~~Where~~ consistent with the purposes of conservation and recreation ~~for which the property was acquired~~, the state or acquiring entity shall make reasonable efforts to keep lands in agricultural production which are in agricultural production at the time of acquisition.

Section 21. Subsection (8) of section 259.101, Florida Statutes, is renumbered as subsection (7), and subsection (5), paragraph (a) of subsection (6), and present subsection (7) of that section are amended, to read:

259.101 Florida Preservation 2000 Act.—

(5) DISPOSITION OF LANDS.—

(a) Any lands acquired pursuant to former paragraphs (3)(a), (3)(c), (3)(d), (3)(e), (3)(f), or (3)(g) of this section, Florida Statutes 2014, if title to such lands is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~,

may be disposed of by the board ~~of Trustees of the Internal Improvement Trust Fund~~ in accordance with the provisions and procedures set forth in s. 253.0341 ~~253.034(6)~~, and lands acquired pursuant to former paragraph (3)(b) of this section, Florida Statutes 2014, may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land acquired with Preservation 2000 funds may be surplused as required by s. 253.0341 ~~253.034(6)~~ or determined to be no longer required for its purposes under s. 373.056(4), as applicable, there shall first be a determination by the board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands if such lands obtained in an exchange are described in the same paragraph of former subsection (3) of this section, Florida Statutes 2014, as the lands disposed.

(c) Revenue derived from the disposal of lands acquired with Preservation 2000 funds may not be used for any purpose except for deposit into the Florida Forever Trust Fund within the department ~~of Environmental Protection~~, for recredit to the share held under former subsection (3) of this section, Florida Statutes 2014, in which such disposed land is described.

(6) ALTERNATE USES OF ACQUIRED LANDS.—

(a) The board ~~of Trustees of the Internal Improvement Trust Fund~~, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to former subsection (3) of this section, Florida Statutes 2014, for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with conservation, preservation, or recreation ~~the purposes for which such lands were acquired~~.

~~(7) ALTERNATIVES TO FEE SIMPLE ACQUISITION.—~~

~~(a) The Legislature finds that, with the increasing pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:~~

~~1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.~~

~~2. Retain, on local government tax rolls, some portion of or interest in lands that are under public protection.~~

~~3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, as appropriate.~~

~~Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition techniques may not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.~~

~~(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects that require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes the purchase of development rights; conservation easements; flowage easements; the purchase of~~

~~timber rights, mineral rights, or hunting rights; the purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique that achieves the public policy goals identified in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions do not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques if appropriate.~~

~~(c) The department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. These initiatives must include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.~~

~~(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.~~

~~(e) The public agency that has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement~~

~~relating to such interest.~~

~~(f) The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.~~

Section 22. Paragraph (a) of subsection (2), paragraphs (i) and (l) of subsection (3), subsections (10) and (13), paragraph (i) of subsection (15), and subsection (19) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of the state's ~~Florida's~~ natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of the state's ~~Florida's~~ remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by

promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's ~~Florida's~~ groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if ~~where~~ compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state ~~Florida~~ for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's ~~Florida's~~ unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's ~~Florida's~~ burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if ~~where~~ compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's ~~Florida's~~ natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less-than-fee interest, or other techniques shall be based on a comprehensive science-based assessment of the state's ~~Florida's~~ natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs

can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the ~~Florida~~ Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management in a manner that is compatible with conservation or recreation purposes ~~consistent with the purposes for which such lands are acquired~~ without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement,

management, or repopulation of habitat for imperiled species. The ~~Acquisition and Restoration~~ council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

~~a.~~ As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

~~b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term~~

~~and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.~~

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the department of Environmental Protection in the following manner:

(i) Three and five-tenths percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever and s. 570.71. Rules concerning the application, acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 253.025 ~~259.041~~. ~~Provisions of~~ The rules developed pursuant to s. 570.71(10), shall also provide for the following:

1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the ~~Acquisition and Restoration~~ council for review, and approved by the board pursuant to s.

259.04.

2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may ~~shall~~ not be delegated by the board to any other entity receiving funds under this section.

3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.

~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended until final adoption of rules by the board pursuant to s. 570.71.

(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~. Proposed additions not meeting the requirements of this paragraph shall be submitted to the ~~Acquisition and Restoration~~ council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at

less than fair market value.

(10) The ~~Acquisition and Restoration~~ council shall give increased priority to:

(a) ~~those~~ Projects for which matching funds are available.

(b) ~~and to~~ Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.

(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.

(e) Projects that contribute to improving the water quality and flow of springs.

(f) ~~The council shall also give increased priority to those~~ Projects for which ~~where~~ the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:

1.~~(a)~~ Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;

2.~~(b)~~ Protecting areas underlying low-level military air corridors or operating areas; and

3.~~(c)~~ Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.

(13) An affirmative vote of at least five members of the

~~Acquisition and Restoration~~ council shall be required in order to place a ~~proposed~~ project submitted pursuant to subsection (7) on the proposed project list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before ~~prior to~~ voting for a project's inclusion on the list.

(15) The ~~Acquisition and Restoration~~ council shall submit to the board ~~of trustees~~, with its list of projects, a report that includes, but need ~~shall~~ not be limited to, the following information for each project listed:

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~.

(19) The ~~Acquisition and Restoration~~ council shall recommend adoption of rules by the board ~~of trustees~~ necessary to implement ~~the provisions of~~ this section relating to~~:~~ solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. ~~Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2010 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees~~

~~shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.~~

Section 23. Subsections (6) and (7) of section 259.1052, Florida Statutes, are amended to read:

259.1052 Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.—

~~(6) In addition to distributions authorized under s. 259.105(3), the Department of Environmental Protection is authorized to distribute $310 million in revenues from the Florida Forever Trust Fund. This distribution shall represent payment in full for the portion of the Babcock Crescent B Ranch to be acquired by the state under this section.~~

~~(7) As used in this section, the term "state's portion of the Babcock Crescent B Ranch" comprises those lands to be conveyed by special warranty deed to the Board of Trustees of the Internal Improvement Trust Fund under the provisions of the agreement for sale and purchase executed by the Board of Trustees of the Internal Improvement Trust Fund, the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the participating local government, as purchaser, and MSKP, III, a Florida corporation, as seller.~~

Section 24. Paragraph (d) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide

the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 253.025 ~~259.041~~, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

Section 25. Paragraph (b) of subsection (1) of section 125.355, Florida Statutes, is amended to read:

125.355 Proposed purchase of real property by county; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 26. Paragraph (b) of subsection (1) of section 166.045, Florida Statutes, is amended to read:

166.045 Proposed purchase of real property by municipality; confidentiality of records; procedure.—

(1)

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025 ~~253.025(6)(b)~~ for each purchase in an amount of not more than $500,000. For each purchase in an amount in excess of $500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025 ~~253.025(6)(b)~~. If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000 or less from the requirement for an appraisal.

Section 27. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program ~~Act of 1972~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant

to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 or s. 338.227, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 28. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(17) ~~253.025(14), s. 259.041(18)~~, s. 717.124(4)(b) and (c), s. 732.107(5), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Chief Financial Officer upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 29. Subsection (8) of section 253.027, Florida Statutes, is amended to read:

253.027 Emergency archaeological property acquisition.—

(8) WAIVER OF APPRAISALS OR SURVEYS.—The Board of Trustees of the Internal Improvement Trust Fund may waive or limit any appraisal or survey requirements in s. 253.025 ~~259.041~~, if necessary to effectuate the purposes of this section. Fee simple

title is not required to be conveyed if some lesser interest will allow the preservation of the archaeological resource. Properties purchased pursuant to this section shall be considered archaeologically unique or significant properties and may be purchased under the provisions of s. 253.025(9) ~~253.025(7)~~.

Section 30. Section 253.7824, Florida Statutes, is amended to read:

253.7824 Sale of products; proceeds.—The Department of Environmental Protection may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited into the appropriate trust fund in accordance with the same disposition provided under s. 253.0341 ~~253.034(6)(k), (l), or (m)~~ applicable to the sale of land.

Section 31. Paragraphs (b) and (c) of subsection (2) of section 260.015, Florida Statutes, are amended to read:

260.015 Acquisition of land.—

(2) For purposes of the Florida Greenways and Trails Program, the board may:

(b) Accept title to abandoned railroad rights-of-way which is conveyed by quitclaim deed through purchase, dedication, gift, grant, or settlement, notwithstanding s. 253.025 ~~259.041(1)~~.

(c) Enter into an agreement or, upon delegation, the department may enter into an agreement, with a nonprofit corporation, as defined in s. 253.025 ~~259.041(7)(e)~~, to assume responsibility for acquisition of lands pursuant to this section. The agreement may transfer responsibility for all

matters which may be delegated or waived pursuant to s. 253.025 ~~259.041(1)~~.

Section 32. Paragraph (b) of subsection (3) of section 260.016, Florida Statutes, is amended to read:

260.016 General powers of the department.—

(3) The department or its designee is authorized to negotiate with potentially affected private landowners as to the terms under which such landowners would consent to the public use of their lands as part of the greenways and trails system. The department shall be authorized to agree to incentives for a private landowner who consents to this public use of his or her lands for conservation or recreational purposes, including, but not limited to, the following:

(b) Agreement to exchange, subject to the approval of the board ~~of Trustees of the Internal Improvement Trust Fund~~ or other applicable unit of government, ownership or other rights of use of public lands for the ownership or other rights of use of privately owned lands. Any exchange of state-owned lands, title to which is vested in the board ~~of Trustees of the Internal Improvement Trust Fund~~, for privately owned lands shall be subject to the requirements of s. 253.025 ~~259.041~~.

Section 33. Subsections (6) and (7) of section 369.317, Florida Statutes, are amended to read:

369.317 Wekiva Parkway.—

(6) The Central Florida Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 253.025 ~~259.041~~ on behalf of the Board of Trustees of the Internal Improvement Trust Fund or chapter 373 on behalf of the governing board of the St. Johns River Water

Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less-than-fee simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/-acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Central Florida Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for

road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road-construction-related impacts incurred by the Department of Transportation or Central Florida Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

(a) Acquisition of the land described in this section is required to provide right-of-way for the Wekiva Parkway, a limited access roadway linking State Road 429 to Interstate 4, an essential component in meeting regional transportation needs to provide regional connectivity, improve safety, accommodate projected population and economic growth, and satisfy critical transportation requirements caused by increased traffic volume growth and travel demands.

(b) Acquisition of the lands described in this section is also required to protect the surface water and groundwater resources of Lake, Orange, and Seminole counties, otherwise known as the Wekiva Study Area, including recharge within the springshed that provides for the Wekiva River system. Protection of this area is crucial to the long term viability of the Wekiva River and springs and the central Florida region’s water supply. Acquisition of the lands described in this section is also necessary to alleviate pressure from growth and development affecting the surface and groundwater resources within the

recharge area.

(c) Lands acquired pursuant to this section that are needed for transportation facilities for the Wekiva Parkway shall be determined not necessary for conservation purposes pursuant to ss. 253.0341 ~~253.034(6)~~ and 373.089(5) and shall be transferred to or retained by the Central Florida Expressway Authority or the Department of Transportation upon reimbursement of the full purchase price and acquisition costs.

(7) The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Central Florida Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities. Properties acquired with Florida Forever funds shall be in accordance with s. 253.025 ~~259.041~~ or chapter 373. The Central Florida Expressway Authority shall acquire land in accordance with this section ~~of law~~ to the extent funds are available from the various funding partners; however, the authority is~~, but shall~~ not ~~be~~ required or ~~nor~~ assumed to fund the land acquisition beyond the agreement and funding provided by the various land acquisition entities.

Section 34. Paragraph (a) of subsection (3) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each

county commission within which a proposed work plan project or project modification or addition is located of the hearing date.

(a) Appraisal reports, offers, and counteroffers are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. If ~~In the event that~~ negotiation is terminated by the district, the appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding ~~the provisions of~~ this section and s. 253.025 ~~259.041~~, a district and the Division of State Lands may share and disclose appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 253.025 ~~259.041~~, except in those cases in which a district and the division have exercised discretion to disclose such information. A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this

section. In addition, a district may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

Section 35. Subsection (8) of section 375.031, Florida Statutes, is amended to read:

375.031 Acquisition of land; procedures.—

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Section 36. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) All moneys and revenue from the sale or other

disposition of land, water areas, or related resources acquired on or after July 1, 2015, for the purposes of s. 28, Art. X of the State Constitution shall be deposited into or credited to the Land Acquisition Trust Fund, except as otherwise provided pursuant to s. 253.0341 ~~253.034(6)(l)~~.

Section 37. Paragraph (a) of subsection (1) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program ~~Act of 1972~~. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need ~~shall~~ not be limited to, revisions

of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.

Section 38. Paragraph (b) of subsection (5) of section 380.055, Florida Statutes, is amended to read:

380.055 Big Cypress Area.—

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program ~~Act of 1972~~, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

Section 39. Paragraph (f) of subsection (4) of section 380.508, Florida Statutes, is amended to read:

380.508 Projects; development, review, and approval.—

(4) Projects or activities which the trust undertakes, coordinates, or funds in any manner shall comply with the following guidelines:

(f) The trust shall cooperate with local governments, state agencies, federal agencies, and nonprofit organizations in ensuring the reservation of lands for parks, recreation, fish and wildlife habitat, historical preservation, or scientific study. If any local government, state agency, federal agency, or nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site for the purposes described in this paragraph, the

trust may acquire and hold the site for subsequent conveyance to the appropriate governmental agency or nonprofit organization. The trust may provide such technical assistance as required to aid local governments, state and federal agencies, and nonprofit organizations in completing acquisition and related functions. The trust may not reserve lands acquired in accordance with this paragraph for more than 5 years from the time of acquisition. A local government, federal or state agency, or nonprofit organization may acquire the land at any time during this period for public purposes. The purchase price shall be based upon the trust's cost of acquisition, plus administrative and management costs in reserving the land. The payment of the purchase price shall be by money, trust-approved property of an equivalent value, or a combination of money and trust-approved property. If, after the 5-year period, the trust has not sold to a governmental agency or nonprofit organization land acquired for site reservation, the trust shall dispose of such land at fair market value or shall trade it for other land of comparable value which will serve to accomplish the purposes of this part. Any proceeds from the sale of such land received by the department shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k), (l), or (m)~~.

Project costs may include costs of providing parks, open space, public access sites, scenic easements, and other areas and facilities serving the public where such features are part of a project plan approved according to this part. In undertaking or coordinating projects or activities authorized by this part, the trust shall, when appropriate, use and promote the use of

creative land acquisition methods, including the acquisition of less than fee interest through, among other methods, conservation easements, transfer of development rights, leases, and leaseback arrangements. The trust shall assist local governments in the use of sound alternative methods of financing for funding projects and activities authorized under this part. Any funds over and above eligible project costs, which remain after completion of a project approved according to this part, shall be transmitted to the state and deposited into the Florida Forever Trust Fund.

Section 40. Section 589.07, Florida Statutes, is amended to read:

589.07 Florida Forest Service may acquire lands for forest purposes.—The Florida Forest Service, on behalf of the state and subject to the restrictions mentioned in s. 589.08, may acquire lands, suitable for state forest purposes, by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the Federal Government, or other agency, for acquiring by gift, purchase, or otherwise, such lands as are, in the judgment of the Florida Forest Service, suitable and desirable for state forests. The acquisition procedures for state lands provided in s. 253.025 ~~259.041~~ do not apply to acquisition of land by the Florida Forest Service.

Section 41. Paragraphs (a) and (b) of subsection (4) of section 944.10, Florida Statutes, are amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(4)(a) Notwithstanding s. 253.025 or s. 287.057, whenever

the department finds it to be necessary for timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances in which the department directly contracts for appraisal services, it must also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price cannot exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 42. Subsections (6) and (7) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(6) Notwithstanding s. 253.025(9) ~~253.025(7)~~, the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the Department of Management Services if the Department of Management Services finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the Department of Management Services finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose

names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8) ~~253.025(6)(b)~~. In those instances when the Department of Management Services directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the Department of Management Services may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 43. Paragraphs (a) and (b) of subsection (12) of section 985.682, Florida Statutes, are amended to read:

985.682 Siting of facilities; criteria.—

(12)(a) Notwithstanding s. 253.025 or s. 287.057, when the department finds it necessary for timely site acquisition, it may contract, without using the competitive selection procedure, with an appraiser whose name is on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection under s. 253.025(8) ~~253.025(6)(b)~~. When the department directly contracts for appraisal services, it must contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8) ~~253.025(6)~~, the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value

allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.

Section 44. Paragraph (b) of subsection (1) of section 1013.14, Florida Statutes, is amended to read:

1013.14 Proposed purchase of real property by a board; confidentiality of records; procedure.—

(1)

(b) Before ~~Prior to~~ acquisition of the property, the board shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~ for each purchase in an amount greater than $100,000 and not more than $500,000. For each purchase in an amount in excess of $500,000, the board shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(8) ~~253.025(6)(b)~~. If the agreed to purchase price exceeds the average appraised value, the board is required to approve the purchase by an extraordinary vote.

Section 45. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

1290
Bill Number (if applicable)

588592
Amendment Barcode (if applicable)

Topic State Lands

Name Dr. Janet Bowman

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Speaking: ☑ For ☐ Against ☐ Information
Amendment

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Nature Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

~~aa 588592~~

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1290
Bill Number (if applicable)

Topic State Lands

aa 588592
Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Audubon

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2-24-16
Meeting Date

1290
Bill Number (if applicable)

Topic STATE LANDS

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Nature Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1290
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Dept. of Environmental Protection

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

24 Feb 16 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

1290
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

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Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing League of Women Voters of FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

1290
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

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Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Tea Party Network

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

1290
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic State Lands

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Liberty First

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-24-16
Meeting Date

SB1290
Bill Number (if applicable)

Topic State Lands

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title

Address 873 Kingsway Rd
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850-320-4208

Email Stef.Kunkel@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Conservancy of Southwest Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1180
Bill Number (if applicable)

Topic STATE LANDS

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY PKWY
Street

SARASOTA FL 34243
City *State* *Zip*

Phone 941-313-2404

Email culloneseed@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1290
Bill Number (if applicable)

Topic STATE LANDS

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766
Street

Phone 954 850 4055

POMPANO BEACH FL 33061
City *State* *Zip*

Email workingfolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing COMMUNICATIONS WORKERS OF AMERICA COUNCIL OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

_____ *Meeting Date*

SB 1290 *Bill Number (if applicable)*

Topic Eric C Dorn

_____ *Amendment Barcode (if applicable)*

Name _____

Job Title _____

Address _____ *Street*

Phone _____

_____ *City* *State* *Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

February 10, 2016

The Honorable Alan Hays
Senate Appropriations Subcommittee on General Government, Chair
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Hays:

I respectfully request that Senate Bill 1290, relating to *State Lands,* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Wilton Simpson, State Senator, 18th District

CC: Appropriations Subcommittee on General Government Staff

REPLY TO:
☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
☐ Post Office Box 938, Brooksville, Florida 34605
☐ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/CS/SB 1430 (680352)
INTRODUCER:	Appropriations Subcommittee on General Government; Governmental Oversight and Accountability Committee; and Senator Brandes
SUBJECT:	State Technology
DATE:	February 26, 2016 REVISED: 03/01/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	**Fav/CS**
2.	Wilson	DeLoach	AGG	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1430 establishes a chief data officer within the Agency for State Technology (AST) who must be appointed by the executive director.

The bill amends s. 282.0051, F.S., to expand the AST's duties to include overseeing the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee and developing standards for the digitization of such licenses and identification cards. The AST is authorized to access all identity, license and identification card data, and other pertinent information within possession of any state agency, commission or department, unless prohibited by federal law, and to adopt rules regarding such access. The AST must also consult with each state agency on various issues relating to commercial cloud computing services.

The Department of Highway Safety and Motor Vehicles (DHSMV), in conjunction with AST, must develop a secure and uniform system for issuing an optional digital proof of driver license. The DHSMV may adopt rules to ensure the valid authentication of digital proof of driver licenses. License or card holders electing to purchase the digital proof of driver license will pay $5 which shall be deposited into the Highway Safety Operating Trust Fund.

The bill has a significant fiscal impact to state funds. The bill appropriates $146,001 in recurring funds and $503,999 in nonrecurring funds from the General Revenue Fund to the DHSMV for implementing the optional digital proof driver license pilot program and the AST for the chief data officer position. The AST will require an additional $195,200 for the additional duties and

responsibilities included in the bill. These additional resources are not appropriated in the bill. See Section V.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Agency for State Technology

The Agency for State Technology (AST) was created on July 1, 2014.[1] The executive director of AST is appointed by the Governor and confirmed by the Senate.

For the 2015-2016 fiscal year, the AST is authorized 25 full-time equivalent positions within its Executive Direction and Support Services budget entity. Of those positions, the executive director is required to designate the following:[2]

- Deputy executive director;
- Chief planning officer and six strategic planning coordinators;
- Chief operations officer;
- Chief information security officer; and
- Chief technology officer.

The duties and responsibilities of the AST include:[3]

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of $10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with the Department of Management Services (DMS).
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.

[1] Chapter 2014-221, Laws of Florida.
[2] Section 20.61(2), F.S.
[3] Section 282.0051, F.S.

- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing a methodology for identifying and collecting current and planned IT expenditure data at a state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of $25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,[4] consisting of seven members, is established within the AST. Four members of the council are appointed by the Governor of which two members must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council makes recommendations to the Executive Director on enterprise information technology policies, standards, services, and architecture.[5] The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.[6] The Executive Director consults with the council with regards to executing the duties and responsibilities of the agency relating to statewide information technology strategic planning and policy.[7]

Digital Proof of Driver License

In 2014, the Legislature enacted s. 322.032, F.S.,[8] requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to prepare for the development of an optional digital proof of driver license in a format that allows law enforcement to verify the authenticity of the digital proof.

Section 322.059, F.S., requires that any person whose driver license or registration has been suspended must return that driver license immediately to the DHSMV. If he or she fails to return the license or registration, a law enforcement agent may seize the driver license. This section further provides that the DHSMV shall invalidate the digital proof of driver license for such person whose driver license is suspended.

Section 322.15, F.S., requires that every licensee must have his or her driver license in his or her possession at all times while operating a motor vehicle and shall display that license upon

[4] Section 20.61(3), F.S.
[5] Section 20.61(3)(a), F.S.
[6] *Id*.
[7] Section 20.61(3)(b), F.S.
[8] Chapter 2014-216, s. 27, Laws of Fla.

demand of a law enforcement officer or an authorized representative of the DHSMV. Also, this section allows a licensee to present or submit a digital proof of driver license in lieu of a physical driver license.

A person who possesses a false digital proof of driver license commits a second degree misdemeanor punishable by imprisonment not to exceed 60 days.[9]

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to establish a chief data officer position within the Agency for State Technology (AST).

Section 2 amends s. 282.0051, F.S., to expand the powers, duties, and functions of the AST to include:

- Overseeing the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee.
- Developing standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law.
- Developing a central digital platform that can store or access data for each type of digital proof of license and identification card.
- Contracting with a third party to assist in the fulfillment of the requirements for a digital proof of license or identification card.
- Consulting with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any other factors delaying or inhibiting the expansion of cloud computing usage.

The bill requires state agencies, commissions, and departments to consult with the AST before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission or department seeks to develop its own digital proof of license or identification card without contracting services to a third party, the AST must develop standards for such digital proof of license or identification card and be consulted in the development of such license or identification card. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

In consultation with other state agencies and giving consideration to the feasibility study[10] conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, the chief data officer is directed to:

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[9] Section 322.032(4)(b), F.S. *Also, see* s. 775.082, F.S.

[10] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf.

- Establish a governance structure for managing state government data in a manner that promotes interoperability and openness.
- Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.

Section 3 amends s. 322.032, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV), in coordination with the AST, to develop a secure and uniform system for issuing an optional digital proof of driver's license for a fee of $5. This fee must be deposited into the Highway Safety Operating Trust Fund within the DHSMV. The DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed must be in a format that allows law enforcement to verify the authenticity of the digital proof and must display the same required information about the licenseholder as does a driver license issued under ch. 322, F.S.

The DHSMV, in coordination with the AST, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

The DHSMV, in coordination with the AST, must implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants are limited to elected state officials and state employee volunteers. The DHSMV must provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

The bill amends the criminal penalties for the offense of possession of a false digital proof of driver license, a second degree misdemeanor, to also include imposition of a fine not to exceed $500.

Section 4 appropriates the sum of $500,000 in nonrecurring funds from the General Revenue Fund to the DHSMV for the purpose of implementing the pilot program created by the amendment to s. 322.032, F.S., for the 2016-2017 fiscal year. The bill also appropriates $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 to the Agency for State Technology for the chief data officer position.

Section 5 provides an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

PCS/CS/SB 1430 provides a $5 fee to be assessed for each license that a citizen wishes to have digital proof of license. The revenue collected will be deposited in the Highway Safety Operating Trust Fund within the DHSMV. Since participation is optional, the annual revenue estimated to be collected is indeterminate.

B. Private Sector Impact:

Indeterminate. The bill directs the AST to establish a catalog of state government data which may result in data requirement changes affecting state agencies ultimately resulting in an impact on the state agency customers.

C. Government Sector Impact:

The bill appropriates $500,000 nonrecurring from the General Revenue Fund for Fiscal Year 2016-2017 to implement digital proof of driver licenses pilot program within Department of Highway Safety and Motor Vehicles.

The bill appropriates $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 for Fiscal Year 2016-2017 to the Agency for State Technology for the chief data officer position.

The bill creates new duties within the Agency for State Technology (AST) to oversee the transition of licenses and identification cards to digital proof of licenses and identification cards and directs the AST to create a central digital platform to store and access the data. The AST's new duties include the establishment of a governance structure and a catalog of state government data consistent with the data feasibility study completed in 2015. According to the study, implementation of the recommendations are estimated to be $195,200 which is unfunded.[11]

Requiring state agencies to consult and potentially participate with the AST on a governance structure to manage state government data and to provide information to establish a catalog of state government data will have an indeterminate fiscal impact.

[11] The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1, 2015. A copy of this study may be accessed at http://www.ast.myflorida.com/doc%20library/1%20-%20DEL6_GDFS_OUTLINE_FINAL_20150601.pdf

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.61, 282.0051, and 322.032.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on General Government on February 24, 2016:

- Deletes the provision regarding full access to state agency, commission, or department identity, license and identification card data by the Agency for State Technology (AST) and eliminates rule making authority for AST governing access to data held by state agencies. Eliminates AST exemption from public disclosure of any data or information accessed.
- Deletes the requirement that the AST make the state government data catalog available to other state agencies and the public if legally permissible and not cost prohibitive.
- The sum of $146,001 in recurring and $3,999 in nonrecurring funds from the General Revenue Fund and one full-time equivalent position with associated salary rate of 100,000 is appropriated to the AST for the chief data officer position created in the bill for the 2016-2017 fiscal year.

CS by Governmental Oversight and Accountability on February 9, 2016:

- Authorizes the AST to consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for expansion of cloud computing, security benefits of transitioning to cloud computing, and any factors delaying expansion of cloud computing;
- All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment;
- Specifies that the $5 fee for issuing an optional digital proof of a driver license shall be deposited into the Highway Safety Operating Trust Fund;
- Deletes provisions of the original bill regarding FWC's development of a secure and uniform system for issuing an optional digital proof of boater safety identification card, vessel licenses and licenses for game, freshwater or saltwater fish, or fur-bearing animals; and
- The sum of $500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DHSMV for implementing a digital proof of driver license pilot program, in coordination with the AST, for the 2016-2017 fiscal year.

B. Amendments:

None.

946636

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Altman) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 97 - 121
and insert:
(18) In consultation with other state agencies and giving consideration to the feasibility study conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, direct the chief data officer to:
(a) Establish a governance structure for managing state government data in a manner that promotes interoperability and

946636

openness;

(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data; and

(c) Ensure that, if legally permissible and not cost prohibitive, such data is readily available to other state agencies and the public in compliance with the public records requirements of chapter 119.

(19) Consult with each state agency on the development of

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:

Delete lines 70 - 72

and insert:

282.0051, Florida Statutes, are redesignated as subsections (20) and (21), respectively, and new subsections (17), (18), and (19) are added to that section, to read:

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:

Delete lines 18 - 23

and insert:

a third party; requiring the agency

518650

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Altman) recommended the following:

Senate Amendment to Amendment (946636)

Delete lines 11 - 19
and insert:
openness; and
(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data.

931850

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 169 and 170

insert:

Section 4. For the 2016-2017 fiscal year, the sums of $146,001 in recurring funds and $3,999 in nonrecurring funds are appropriated from the General Revenue Fund to the Agency for State Technology, and one full-time equivalent position with associated salary rate of 100,000 is authorized, for the purpose of implementing the position of chief data officer established

931850

by the amendment to s. 20.61, Florida Statutes.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete line 51

and insert:

providing appropriations; providing an effective

By the Committee on Governmental Oversight and Accountability; and Senator Brandes

585-03244-16 20161430c1

A bill to be entitled

An act relating to state technology; amending s. 20.61, F.S.; establishing a chief data officer within the Agency for State Technology who shall be appointed by the executive director; amending s. 282.0051, F.S.; authorizing the Agency for State Technology to oversee the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee; requiring the agency to develop standards for the digitization of individual licenses and identification cards; requiring the agency to develop a central digital platform that can store or access data for each type of digital proof of license and identification card; requiring state agencies, commissions, and departments to consult with the agency under certain circumstances; authorizing the agency to contract with a third party; providing that the agency has full access to certain data and information within the possession of any state agency, commission, or department under certain circumstances; authorizing the agency to adopt rules governing its access of such data; providing for construction; requiring the agency to direct the chief data officer to establish a governance structure for managing state government data, to establish a certain catalog of such data, and to ensure that such data is available to other state agencies and the public and complies with ch. 119, F.S.; requiring the agency to consult with state agencies on specified factors relating to cloud computing; requiring state agencies to evaluate and

585-03244-16 20161430c1

consider cloud computing services before making certain investments; amending s. 322.032, F.S.; requiring the Department of Highway Safety and Motor Vehicles, in coordination with the Agency for State Technology, to develop, rather than begin to review and prepare for the development of, a system for issuing an optional digital proof of driver license for a specified fee, subject to certain requirements; providing for deposit of such fees; authorizing the department, in coordination with the agency, to adopt rules to ensure valid authentication of digital proof of driver licenses; providing criteria for digital proof of driver licenses; requiring the department, in coordination with the agency, to implement a digital proof of driver license pilot program by a specified date, subject to certain requirements; requiring the department to provide a report to the Governor and the Legislature by a specified date; adding a penalty for possession of false digital proof of driver license; providing an appropriation; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 20.61, Florida Statutes, to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not

subject to control, supervision, or direction by the Department of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(2) The following positions are established within the agency, all of whom shall be appointed by the executive director:

(f) Chief data officer.

Section 2. Present subsections (17) and (18) of section 282.0051, Florida Statutes, are redesignated as subsections (21) and (22), respectively, and new subsections (17), (18), (19), and (20) are added to that section, to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(17) Oversee the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a $5 fee. The agency shall develop standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law. The agency shall also develop a central digital platform that can store or access data for each type of digital proof of license and identification card. State agencies, commissions, and departments must consult with the agency before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission, or department seeks to develop its own

digital proof of license or identification card without contracting services to a third party, the agency shall develop standards for such digital proof of license or identification card and must be consulted in the development of such license or identification card. The agency may contract with a third party to assist in the fulfillment of the requirements of this subsection.

(18) Have full access to all identity data, license and identification card data, and other pertinent information within the possession of any state agency, commission, or department unless otherwise prohibited by federal law. The agency may adopt rules governing its access to data held by other state agencies, commissions, and departments. If any data or information accessed by the agency is exempt from public disclosure pursuant to general law, this section may not be construed to negate the exemption.

(19) In consultation with other state agencies and giving consideration to the feasibility study conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, direct the chief data officer to:

(a) Establish a governance structure for managing state government data in a manner that promotes interoperability and openness;

(b) Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data; and

(c) Ensure that, if legally permissible and not cost prohibitive, such data is readily available to other state

agencies and the public in compliance with the public records requirements of chapter 119.

(20) Consult with each state agency on the development of the agency's legislative budget request for the use of commercial cloud computing services, current plans for the expansion of cloud computing to leverage the utility-based model, security benefits of transitioning to cloud computing, and any factors delaying or inhibiting the expansion of cloud computing usage. All state agencies must evaluate and consider commercial cloud computing services before making any new information technology or telecommunications investment.

Section 3. Section 322.032, Florida Statutes, is amended to read:

322.032 Digital proof of driver license.—

(1) The department, in coordination with the Agency for State Technology, shall develop ~~begin to review and prepare for the development of~~ a secure and uniform system for issuing an optional digital proof of driver license for a fee of $5. Such fees shall be deposited into the Highway Safety Operating Trust Fund. The department may contract with one or more private entities to develop a digital proof of driver license system pursuant to s. 282.0051(17).

(2) ~~The~~ Digital proof of driver license developed by the department or by an entity contracted by the department must be in ~~such~~ a format that allows ~~as to allow~~ law enforcement to verify the authenticity of such ~~the~~ digital proof ~~of driver license~~. The department, in coordination with the Agency for State Technology, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

(3) Digital proof of driver license must display the same required information about the licenseholder as does a driver license under this chapter.

(4) ~~(3)~~ A person may not be issued ~~a~~ digital proof of driver license until he or she has satisfied all of the requirements of this chapter for issuance of a physical driver license ~~as provided in this chapter~~.

(5) The department, in coordination with the Agency for State Technology, shall implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants must be limited to elected state officials and state employee volunteers. The department shall provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

(6) ~~(4)~~ A person who:

(a) Manufactures ~~a~~ false digital proof of driver license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Possesses ~~a~~ false digital proof of driver license commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. For the 2016-2017 fiscal year, the sum of $500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the purpose of implementing the pilot program created by the amendment to s. 322.032, Florida Statutes.

Section 5. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/16
Meeting Date

1430
Bill Number (if applicable)

Topic STATE TECHNOLOGY

Amendment Barcode (if applicable)

Name JAMES TAYLOR

Job Title EXECUTIVE DIRECTOR

Address 115 PARK AVE
Street

TALLAHASSEE FL
City *State* *Zip*

Phone 407 718-2780

Email

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA TECHNOLOGY COUNCIL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Alan Hays, Chair
Appropriations Subcommittee on General Government

Subject: Committee Agenda Request

Date: February 9, 2016

I respectfully request that **Senate Bill #1430**, relating to **State Technology**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL:	PCS/SB 1504 (803522)
INTRODUCER:	Appropriations Subcommittee on General Government and Senator Bean
SUBJECT:	Credit for Relevant Military Service
DATE:	February 26, 2016 REVISED: 03/02/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	**Favorable**
2.	Davis	DeLoach	AGG	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1504 requires the Department of Business and Professional Regulation (DBPR), the Department of Health (DOH), and the Department of Agriculture and Consumer Services (DACS) to extend credit for relevant military service across a broad range of professions and occupational fields. The bill also requires the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Military Affairs (DMA) to provide commercial drivers' license (CDL) testing opportunities to Florida National Guard members at certain military facilities in Florida. Specifically, the bill:

- Requires the DBPR to extend credit towards the requirements for construction and electrical contracting licensure for experience, training, or education received and completed during service in the United States Armed Forces, if the experience, training or education is substantially similar to the experience, training, or education required for licensure. The DBPR will submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific data on, among other things, how many veterans have applied, been denied, been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Provides alternative eligibility criteria for a military service member seeking licensure as a health care practitioner through the DOH in this state and extends the alternative eligibility criteria, and other current licensure eligibility criteria for military applicants, to the spouses of active duty military personnel who apply for a license as a health care practitioner.

- Exempts out-of-state or military-trained emergency medical technicians (EMTs) or paramedics from a certification examination requirement if the EMT or paramedic is already nationally certified or registered as recognized by the DOH.
- Allows military health care practitioners who are practicing under a military platform, which is a training agreement with a nonmilitary health care provider, to be issued a temporary certificate to practice in this state.
- Requires the DACS to extend credit towards the requirements for licensure for military training or education received and completed during service in the United States Armed Forces, if the training or education is substantially similar to the training or education required for private security, private investigative and recovery services licenses, and requires the DACS to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific statistics on, among other things, how many veterans have applied, been denied, and been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Requires the DHSMV and the DMA to create a commercial drivers' license testing pilot program to provide testing opportunities to qualified members of the North Florida National Guard.

The bill has an insignificant fiscal impact; however existing resources are sufficient for the DOH, the DBPR, the DACS, the DHSMV, and the DMA to implement provisions of the bill.

The bill takes effect July 1, 2016.

II. Present Situation:

Health Care Practitioner Licensure

The Department of Health (DOH) is responsible for the regulation of health practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards and six councils, licenses and regulates seven types of health care facilities, and more than 200 license types, in over 40 health care professions.[1] Any person desiring to be a licensed health care professional in Florida must apply to the DOH, MQA in writing.[2] Most health care professions are regulated by a board or council in conjunction with the DOH and all professions have different requirements for initial licensure and licensure renewal.[3]

Military Health Care Practitioners

Section 456.024, F.S., provides that any member of the United States Armed Forces who has served on active duty in the military, reserves, National Guard, or in the United States Public Health Service, as a health care practitioner, is also eligible for licensure in Florida. The DOH is required to waive fees and issue these individuals a license if they submit a completed application and proof of the following:

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[1] Florida Dep't of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2014-2015*, p.6, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf
[2] Section 456.013, F.S.
[3] *See* chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

- An honorable discharge within six months before or after, the date of submission of the application;[4]
- An active, unencumbered license issued by another state, the District of Columbia, or a United States possession or territory, with no disciplinary action taken against it in the five years preceding the date of submission of the application;
- An affidavit that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying;
- Documentation of actively practicing his or her profession for the three years preceding the date of submission of the application; and
- A completed fingerprint card for a background screening, if required for the profession for which he or she is applying.[5]

Florida offers an expedited licensure process to facilitate veterans seeking licensure in a health care profession in Florida through its Veterans Application for Licensure Online Response System (VALOR).[6] In order to qualify, a veteran must apply for the license within six months before, or six months after, he or she is honorably discharged from the Armed Forces; and there is no application fee, licensure fee, or unlicensed activity fee.[7]

A board, or the DOH if there is no board, may also issue a temporary health care professional license to the spouse of an active duty member of the Armed Forces upon submission of an application form and fees. The applicant must hold a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States and may not be the subject of any disciplinary proceeding in any jurisdiction relating to the practice of a regulated health care profession in Florida. A spouse who is issued a temporary professional license to practice as a dentist under this authority must practice under the indirect supervision of a Florida dentist.

Emergency Medical Technicians (EMTs) and Paramedics Certification Under Chapter 401, F.S.

EMTs and paramedics in Florida are certified by the DOH under ch. 401, F.S. Frequently, EMTs and paramedics work closely with police and firefighters during an emergency situation. EMTs and paramedics take care of sick or injured patients in an emergency medical setting.[8] Any person seeking certification in Florida as an EMT or paramedic who was trained out of state must provide proof of the following:

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[4] A form DD-214 or an NGB-22 is required as proof of honorable discharge. Department of Health, *Veterans*, http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html (last visited Dec. 15, 2015).
[5] *Id.* The Military Veteran Fee Waiver Request Form, also must be submitted with the application for licensure to receive waiver of fees and is available on the DOH website.
[6] Florida Dep't of Health, *Veterans*, http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html, (last visited Dec. 15, 2015).
[7] *Id.*
[8] U.S. Bureau of Labor Statistics, EMTs and Paramedics, http://www.bls.gov/ooh/Healthcare/EMTs-and-paramedics.htm#tab-2 (last visited January 28, 2016).

- A current EMT or paramedic certification or registration based upon successful completion of a training program approved by the DOH as equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;
- A current certificate in cardiopulmonary resuscitation or advanced cardiac life support; and
- Successful completion of the certification examination within two years.

Construction and Electrical Contractors

The Department of Business and Professional Regulation (DBPR) is the agency charged with licensing and regulating various businesses and professionals in the state. The Division of Professions is responsible for the licensing of 415,000 professions including construction contractors,[9] electrical contractors and alarm system contractors. The Construction Industry Licensing Board licenses and regulates the construction industry and the Electrical Contractor's Licensing Board licenses and regulates alarm system and electrical contractors. Licenses for these professions may be either certified or registered licenses. Certified licenses are statewide and allow the contractor to work anywhere in Florida. Registered licenses are limited to certain local jurisdictions and only allow a contractor to work in the cities or counties where the contractor holds a certificate of competency.[10]

Section 489.111(2)(c), F.S., provides the experience and education requirements for all construction contractor applicants, without exception for military veterans. These requirements include four years of experience in the category applied for, with one year as a supervisor. Applicants may apply up to three years of college credit toward the experience requirements. The Construction Industry Licensing Board reviews applicant experience when necessary to determine if the experience is within the category applied for.

Section 489.511(1)(b)3.c., F.S., provides that an applicant for an electrical or alarm system contractor license may use technical experience in electrical or alarm system work with the military or a governmental entity to meet the minimum six years of experience requirement.

Section 489.511(1)(b)3.e., F.S., provides for technical education to be used in conjunction with experience to meet the six year experience requirements, and technical training received in the military is acceptable under this provision. The Electrical Contractors' Licensing Board reviews all applications to determine if the required training and experience has been met.

Ex-Military Construction and Electrical Contractors

Section 455.213, F.S., requires the DBPR to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for an honorably discharged military veteran, or his or

[9] Section 489.105, F.S., divides contractors into Division I and Division II contractors. Division I contractors include general, building, and residential contractors. Division II contractors include sheet metal, roofing, 3 classes of air conditioning, mechanical, commercial and residential pool, 3 types of pool, plumbing, underground excavating, solar, pollutant storage, and specialty contractors.

[10] Florida Dep't of Business and Professional Regulation, Construction Industry Licensing Board, *Definition of Occupation and Class Codes*, available at: http://www.myfloridalicense.com/DBPR/pro/cilb/codes.html, (last visited Jan. 21, 2016).

her spouse at the time of discharge, if he or she applies for a license within five years after discharge.

Section 455.02, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DBPR administrative board,[11] he or she will be kept in good standing, without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

Section 455.02, F.S., also provides that the DBPR may issue a temporary license to the spouse of an active duty member of the military if the spouse provides the following:

- Application fee;
- Proof of his or her marriage to an active duty military member;
- Proof of a valid professional license in another state, the District of Columbia, any United States possession or territory, or any foreign jurisdiction;
- Proof of active duty military orders that the applicant and his or her spouse are both assigned to duty in Florida; and
- A complete set of the applicant's fingerprints to be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for state and federal criminal background check, at the applicant's expense.

The temporary license expires six months after the date of issuance and is not renewable.

Licensing of Private Investigators, Private Security Officers and Recovery Agents

Private investigators, private security officers, and recovery agents are regulated by the Department of Agriculture and Consumer Services (DACS) under, ch. 493, F.S., and Rule 5N-1, F.A.C., which sets out the requirements for a person or business to obtain and renew the various types of licenses. In 2015, the DACS' Division of Licensing regulated 26 different licenses under ch. 493, F.S.: six private investigator, seven private security officer, seven recovery agent, and six firearm; for a total of 1,668,339 licensees in Florida.[12]

Section 493.6106, F.S., provides that applicants for licenses as a private investigator, security officer or recovery agent must:

- Be 18 years of age;
- Be a United States citizen, legal resident or have authority to work by the United States Citizenship and Immigration Services (USCIS);
- Have no disqualifying criminal history;
- Be of good moral character; and

[11] See s. 20,165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.
[12] Florida DACS, Division of Licensing, *Number of Licensees by Type As of December 31, 2015*, available at http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf, (last visited Jan. 22, 2016).

- Have no history of incompetency, mental illness, or history of use of illegal drugs or alcoholism, unless evidence is presented showing successful completion of a rehabilitation program, or current mental competency, as appropriate.

Those applicants must provide to the DACS, among other things, an application with the following:

- Name;
- Date of birth;
- Social Security number;[13]
- Place of Birth;
- A statement of all criminal convictions, including dispositions, and adjudications withheld;
- A statement of whether he or she has been adjudicated incapacitated or committed to a mental institution;
- A statement regarding any history of illegal drug use or alcohol abuse;
- One full-face, color photograph; and
- A full set of prints on the division's fingerprint card or submitted electronically via a personal inquiry waiver and the appropriate fees.[14]

The DACS currently requires returning veterans and their spouses to pay application fees, fingerprint fees, and all other applicable fees when applying for licenses under ch. 493, F.S., as private investigators, security officers or recovery agents.

Commercial Drivers' License Examination Process

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) administers all driving tests. All applicants for a commercial driver license are required to have an operator's license and pass the vision and hearing tests. Applicants must be at least 18 years of age. If they are under 21, they will be restricted to intrastate operation only. Oral exams may be given in English or Spanish with the exception of skills test or Hazmat exams. Interpreters may not be used.[15]

There are three types of Commercial Driver License (CDL) licenses in Florida: Class A, Class B, and Class C. Which license is required is dependent upon the weight and type of the vehicle to be operated, and the materials being transported.[16]

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[13] The DACS will not disclose an applicant's social security number without consent of the applicant to anyone outside the DACS unless required by law. *See* Chapter 119, F. S., 15 U.S.C., ss. 1681 et seq., 15 U.S.C. ss. 6801 et seq., 18 U.S.C. ss. 2721 et seq., Pub. L. No. 107-56 (USA Patriot Act of 2001), and Presidential Executive Order 13224.

[14] *See also* Fla. Dept. of Agriculture and Consumer Affairs, *Private Investigator Handbook*, p. 11, available at https://licensing.freshfromflorida.com/forms/P-00093_PrivateInvestigatorHandbook.pdf; *Security Officer Handbook*, p. 16, *available at* https://licensing.freshfromflorida.com/forms/P-00092_SecurityOfficerHandbook.pdf; *Recovery Agent Handbook*, at p. 9, https://licensing.freshfromflorida.com/forms/P-00094_RecoveryAgentHandbook.pdf, (last visited Jan. 22, 2016).

[15] Florida Dep't of Highway Safety and Motor Vehicles, *How do I obtain my Commercial Driver License (CDL)?*, available at http://www.flhsmv.gov/ddl/cdl.html, (last visited Jan. 22, 2016).

[16] Florida Dep't of Highway Safety and Motor Vehicles, "*How do I obtain my Commercial Driver License (CDL)?" available at:* http://www.flhsmv.gov/ddl/cdl.html, (last visited Jan. 22, 2016).

Active duty military or veterans requesting to be issued a CDL due to qualifications of experience while serving on military duty must:

- Pass all required knowledge[17] and endorsement exams for the CDL license class and endorsements they are applying to obtain; and
- Present the Certification for Waiver of Skill Test for Military Personnel form (certification form) completed by their commanding officer or designee while on active duty or within 90 days of separation from service.[18]

Military are only exempt from taking the skills exams. The process must be completed, and the CDL issued, within 120 days of separation from service. The certification form can be provided to the candidate.[19]

The portion of the examination which tests an applicant's safe driving ability is to be administered by the DHSMV or by an entity authorized by the DHSMV to administer such examination, pursuant to s. 322.56, F.S. Such examination is to be administered at a location approved by the DHSMV. A person who seeks to retain a hazardous-materials endorsement must, upon renewal, pass the test for such endorsement as specified in s. 322.57(1)(e), F.S., if the person has not taken and passed the hazardous-materials test within two years preceding his or her application for a commercial driver license in this state.[20]

III. Effect of Proposed Changes:

Initial Licensure Requirements

Military Health Care Practitioners

The bill amends s. 456.024, F.S., to delineate that the following military personnel and military-connected persons are eligible for health care practitioner licenses in Florida:

- A person who serves, or has served, in the United States Armed Forces, Reserves, or National Guard;
- A person who serves, or has served, on active duty as a health care practitioner[21] in the United States Armed Forces as a health care practitioner in the United States Public Health Service; or
- A health care practitioner, other than a dentist, in another state or United States jurisdiction whose spouse serves on active duty in the United States Armed Forces.

The bill authorizes the Department of Health (DOH) to waive fees and issue licenses to a person who:

- Submits a complete application form;
- Is a member of the United States Armed Forces, Reserves, or National Guard and submits proof that he or she will receive an honorable discharge either six months before, or six months after the date of the application; and

[17] *See* s. 322.12(4), F.S.
[18] See supra note 15.
[19] *See* supra note 15.
[20] *See* supra note 16.
[21] The bill defines the term "health care practitioner" as those defined in 456.001, F.S. and Part IV of Ch. 468.

  - Holds an active, unencumbered license in another state or United States jurisdiction with no disciplinary action in the preceding five years;
  - Is a military health care practitioner in a profession that does not require licensure in other states, if the applicant can provide evidence to the DOH of training or experience substantially equivalent to that required in Florida and evidence of a passing score on a regional or national standards organization exam, if one is required in Florida; or
  - Is the spouse of an active duty person serving in the United States Armed Forces and is health care practitioner in profession, excluding dentistry, that does not require licensure in other states, if the applicant can provide evidence to the DOH of training or experience substantially equivalent to that required in Florida and evidence of a passing score on a regional or national standards organization exam, if one is required in Florida; and
- Attests that he or she is not under licensure disciplinary preceding anywhere;
- Actively practiced the profession for which licensure is sought for three years preceding the date of the application; and
- Submits a set of fingerprints for a background screening.

The bill also makes military-trained Emergency Medical Technicians (EMTs) or paramedics eligible for certification in Florida under ch. 401, F.S.,[22] if they provide proof of:
- A current EMT or paramedic certification or registration that is considered by the DOH to be nationally recognized;
- Successful completion of a DOH-approved training program as equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation; and
- A current certificate of successful course completion in cardiopulmonary resuscitation or advanced cardiac life support.

The bill creates s.456.0241, F.S.,[23] which authorizes the DOH to issue temporary certificates to active duty military health care practitioners to practice, if the applicant meets all of the following requirements:
- Submits proof that he or she will be practicing pursuant to a military platform[24];
- Submits a complete application and nonrefundable application fee;
- Provides proof of:
  - Having an active, unencumbered license to practice as a health care professional in another state or United States jurisdiction; or
  - Being a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the United States Armed Services; and
  - Provides evidence of military training and experience substantially equivalent to the requirements for licensure in this state to practice in that profession;

[22] See section 1 of the bill.
[23] See section 3 of the bill.
[24] Section 456.0241, F.S., defines a "Military platform" as a military training agreement with a non-military health care provider which is designed to develop and support medical, surgical, or other health care treatment opportunities in a nonmilitary health care provider setting to authorize a military health care practitioners to develop and maintain the technical proficiency necessary to meet the present and future health care needs of the United States Armed Forces. Such agreements may include Training Affiliation Agreements and External Resource Sharing Agreements.

- Attests that he or she is not subject to any disciplinary proceeding where he or she holds a license or by the United States Department of Defense;
- Has been determined to be competent in the profession for which he or she is applying for a temporary certificate; and
- Submits a set of fingerprints for a background if required by the profession for which he or she is applying for a temporary certificate.

The temporary certificates expire six months after issuance but may be renewed upon proof of the certificate holder receiving continuing orders in this state and that he or she continues to be a military platform participant. All provisions of ch. 456, F.S., apply to these licensees except the practitioner profile requirements of ss. 456.039-456.046, F.S.

Ex-Military Construction and Electrical Contractors

The bill creates ss. 489.1131 and 489.5161, F.S., and requires the Department of Business and Professional Regulation (DBPR) to provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran specific application and provide the following:

- Extension of credit to the fullest extent possible toward the requirements for licensure for military experience, training, or education received and completed during service in the United States Armed Forces if the experience, training, or education is substantially similar to the experience, training, or education required for licensure.
- For a Construction Contracting License: Up to three years of active duty service in the United States Armed Forces, regardless of duty or training, must be accepted to meet the four year experience requirement. A minimum of one additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.
- For Electrical or Alarm System Contracting Licenses: At least four years of experience as a supervisor or contractor in the military equivalent to the trade for which he or she is making application must be accepted to meet the four year experience requirement.

Beginning October 1, 2017, the DBPR, in conjunction with the boards, is to provide an annual report titled, "Construction and Electrical Contracting Veteran Application Statistics", to the President of the Senate, Speaker of the House of Representatives, and the Governor detailing the following for both ss. 489.1131, and 489.5161, F.S.:

- The number of applicants who identified themselves as veterans;
- The number of veterans whose application for a license was approved;
- The number of veterans whose application for a license was denied, including the reasons for denial;
- Data on the application processing times for veterans; and
- Recommendations on ways to improve the DBPR's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license regulated by the department pursuant to ch. 489, part I and part II, F.S.

Lastly, the bill amends s. 489.511, F.S., to permit applicants to qualify for licensure by establishing at least four years of supervisory experience in electrical or alarm system

contracting obtained with the United States Armed Forces within the previous eight years or six years of technical education or training in electrical or alarm system training with the United States Armed Forces or a governmental entity within the last 12 years. Each applicant is required to take and pass the appropriate examination in the category of licensure sought.

Ex-Military Private Investigators, Private Security Officers and Recovery Agents

The bill creates s. 493.61035, F.S., and requires the Department of Agriculture and Consumer Services (DACS) to provide a method for honorably discharged veterans to satisfy the licensure requirements for licenses as private investigators, private security officers, and recovery agents by receiving credit to the fullest extent possible toward the requirements for licensure for their substantially similar military training and education. The DACS is to identify the overlaps, and the gaps, between the license requirements and the veteran's military training and education. The DACS is to assist in identifying training programs to fill the gaps.

Beginning October 1, 2017, the DACS is to provide an annual report to the President of the Senate, Speaker of the House of Representatives, and the Governor detailing the following for s. 493.61035, F.S.:

- The number of applicants who identified themselves as veterans;
- The number of veterans whose application for a license was approved;
- The number of veterans whose application for a license was denied, including the reasons for denial;
- Data on the application processing times for veterans;
- The DACS's efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure;
- The DACS's identification of the most common overlaps and gaps between requirements for licensure and the military training and education received and completed by the veteran applicants; and
- Recommendations on ways to improve the DACS's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license regulated by the DACS pursuant to ch. 493, F.S.

Commercial Drivers' License Testing Pilot Program for North Florida National Guard

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Military Affairs (DMA) to jointly conduct a pilot program to provide onsite commercial driver license testing opportunities to qualified members of the Florida National Guard pursuant to the DHSMV commercial driver license skills test waiver under s. 322.12, F.S., described previously.[25] Testing must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to the departments.

The DHSMV and the DMA shall submit, by June 30, 2017, a report on the pilot program to the President of the Senate and the Speaker of the House of Representatives.

[25] *See* supra note 15.

This undesignated section is repealed October 1, 2017, and will not be codified in the Florida Statutes.

The bill has an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/SB 1504 may increase the number of veterans and their spouses receiving health care licenses and increase the number of veterans receiving contractor, private investigator, private security, and recovery agent licenses.

C. Government Sector Impact:

According to the agencies impacted by the bill, the fiscal impacts are as follows:

Department of Health (DOH)
The DOH may experience a recurring increase in workload associated with the expanded eligibility criteria of the military fee waiver for health care professional licensure. The number of qualified applicants who will apply for licensure is indeterminate; however, the DOH anticipates that current resources are adequate to absorb the impact.[26]

The DOH provisions are also included in CS/CS/SB 918.

The revenues from health care practitioner licensure fees may be reduced due to the expansion of fee waivers for military spouses applying for licensure. The bill also allows the DOH to assess up to a $50 application fee and renewal fee for temporary certificates

[26] *See 2016 Florida Department of Health Legislative Bill Analysis for SB 1504*, January 11, 2016 (on file with the Senate Appropriations Subcommittee on General Government).

for active duty military health care professionals. The DOH has the authority to waive the fee; yet if assessed, the fee revenues generated would support the regulatory expenses of the licenses.[27]

Department of Agriculture & Consumer Services (DACS)
According to the DACS, the cost to implement the bill will be minimal and "can be accomplished within existing resources."[28] There may be an insignificant negative fiscal impact related to the review of current licensure requirements. This will be absorbed within existing agency resources.

Department of Business and Professional Regulation (DBPR)
According to the DBPR, there is no fiscal impact anticipated.[29]

Information technology programming modifications will be necessary to identify military veteran applicants of affected license types. These costs can be handled with existing resources.[30]

Department of Highway Safety and Motor Vehicles (DHSMV) and Department of Military Affairs (DMA)
There is estimated to be no additional costs to DHSMV for the commercial drivers' license pilot program. Currently, the DHSMV operates a program titled 'Florida Licensing on Wheels (FLOW),[31] which provides a convenient method to renew a driver license, obtain a replacement driver license, change a name or address on a driver license, get an identification card, etc. This requirement may be incorporated into the DHSMV's existing FLOW program within existing resources.

There is estimated to be no additional costs to the DMA, and existing resources is sufficient.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Not all professions have national standards examinations. An amendment may be advisable to recognize that some professions use regional standards examinations.

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[27] *See 2016 Florida Department of Health Legislative Bill Analysis for HB 941,* December 15, 2015 (on file with the Senate Appropriations Subcommittee on General Government).
[28] *See 2016 Department of Agriculture and Consumer Services Bill Analysis for SB 1504,* January 25, 2016 (on file with the Senate Appropriations Subcommittee on General Government).
[29] *See 2016 Department of Business and Professional Regulation Bill Analysis for HB 7105,* February 12, 2016 (on file with the Senate Appropriations Subcommittee on General Government).
[30] *Id.*
[31] Information on the FLOW program is available at the DHMSV FLOW website here: http://www.flhsmv.gov/offices/FLOW.htm (last visited February 18, 2016).

VIII. Statutes Affected:

This bill substantially amends sections 401.27, 456.024, and 489.511 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 456.0241, 489.1131, 489.5161, and 493.61035.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on General Government on February 24, 2016:
The committee substitute:

- Revises the eligibility criteria for military health care practitioners to receive a license in this state by allowing those who meet equivalent training and education requirements and who have taken a national or regional examination to be qualified;
- Authorizes spouses of active duty military members who are health care practitioners, excluding dentistry, to become eligible for expedited licensure and waiver of fees, if he or she meets certain criteria;
- Allows military health care practitioners who are practicing under a military platform (training agreement with a nonmilitary health care provider) to be issued a temporary certificate to practice in Florida;
- Exempts out of out-of-state or military-trained emergency medical technicians (EMTs) or paramedics from the certification examination required by the DOH, if the EMT or paramedic is nationally certified or registered;
- Reinstates back to current law the requirement that a military spouse who has been issued a temporary dental license practice under the indirect supervision of a Florida dentist;
- Modifies methods by which honorably discharged veterans may apply for licensure with the DBPR for construction contractor, electrical and alarm system contractor licenses;
- Changes the submission date of the report required by the DHSMV and the DMA to June 30, 2017 instead of June 30, 2018; and
- Repeals the joint pilot program provided by the DHSMV and DMA effective October 1, 2017.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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Appropriations Subcommittee on General Government (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (12) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(12) An applicant for certification as an emergency medical technician or paramedic who is trained outside the state, or trained in the military, must provide proof of a current,

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nationally recognized emergency medical technician or paramedic certification or registration that is recognized by the department and based upon successful completion of a training program approved by the department as being equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and hold a current certificate of successful course completion in cardiopulmonary resuscitation (CPR) or advanced cardiac life support for emergency medical technicians or paramedics, respectively, to be eligible for ~~the~~ certification ~~examination~~. ~~The applicant must successfully complete the certification examination within 2 years after the date of the receipt of his or her application by the department. After 2 years, the applicant must submit a new application, meet all eligibility requirements, and submit all fees to reestablish eligibility to take the certification examination.~~

Section 2. Subsection (3) of section 456.024, Florida Statutes, is amended to read:

456.024 Members of United States Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(3)(a) A person is eligible for licensure as a health care practitioner in this state if he or she:

1. ~~who~~ Serves or has served as a health care practitioner in the United States Armed Forces, the United States Reserve Forces, or the National Guard;

2. ~~or a person who~~ Serves or has served on active duty with the United States Armed Forces as a health care practitioner in

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the United States Public Health Service; or

3. Is a health care practitioner, other than a dentist, in another state, the District of Columbia, or a possession or territory of the United States and is the spouse of a person serving on active duty with the United States Armed Forces, ~~is eligible for licensure in this state~~.

The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(b) ~~(a)~~ The board, or the department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

2. If he or she is member of the United States Armed Forces, the United States Reserve Forces, or the National Guard, submits proof that he or she has received ~~Receives~~ an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3.a. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application;

b. Is a military health care practitioner in a profession

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for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces, if he or she submits to the department evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state; or

c. Is the spouse of a person serving on active duty in the United States Armed Forces and is a health care practitioner in a profession, excluding dentistry, for which licensure in another state or jurisdiction is not required, if he or she submits to the department evidence of training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

4. Attests that he or she is not, at the time of submission of the application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.

6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(c) ~~(b)~~ Each applicant who meets the requirements of this subsection shall be licensed with all rights and responsibilities as defined by law. The applicable board, or the department if there is no board, may deny an application if the applicant has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession regulated by this state.

(d) ~~(c)~~ An applicant for initial licensure under this subsection must submit the information required by ss. 456.039(1) and 456.0391(1) no later than 1 year after the license is issued.

Section 3. Section 456.0241, Florida Statutes, is created to read:

456.0241 Temporary certificate for active duty military health care practitioners.—

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

(a) "Military health care practitioner" means:

1. A person practicing as a health care practitioner as defined in s. 456.001, as a person licensed under part III of chapter 401, or as a person licensed under part IV of chapter 468 who is serving on active duty in the United States Armed Forces, the United States Reserve Forces, or the National Guard; or

2. A person who is serving on active duty in the United


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States Armed Forces and serving in the United States Public Health Service.

(b) "Military platform" means a military training agreement with a nonmilitary health care provider which is designed to develop and support medical, surgical, or other health care treatment opportunities in a nonmilitary health care provider setting to authorize a military health care practitioner to develop and maintain the technical proficiency necessary to meet the present and future health care needs of the United States Armed Forces. Such agreements may include Training Affiliation Agreements and External Resource Sharing Agreements.

(2) The department may issue a temporary certificate to a military health care practitioner to practice in a regulated profession in this state if the applicant:

(a) Submits proof that he or she will be practicing pursuant to a military platform.

(b) Submits a complete application and a nonrefundable application fee.

(c) Holds an active, unencumbered license to practice as a health care professional issued by another state, the District of Columbia, or a possession or territory of the United States, or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the United States Armed Forces and provides evidence of military training and experience substantially equivalent to the requirements for licensure in this state in that profession.

(d) Attests that he or she is not, at the time of submission of the application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license


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or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

(e) Has been determined to be competent in the profession for which he or she is applying.

(f) Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(3) A temporary certificate issued under this section expires 6 months after issuance but may be renewed upon proof of continuing military orders for active duty assignment in this state and evidence that the military health care practitioner continues to be a military platform participant.

(4) A military health care practitioner applying for a temporary certificate under this section is exempt from ss. 456.039-456.046. All other provisions of this chapter apply to such military health care practitioner.

(5) An applicant for a temporary certificate under this section is deemed ineligible if he or she:

(a) Has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;

(b) Has had a health care provider license revoked or suspended in another state, the District of Columbia, or a possession or territory of the United States;


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(c) Has failed to obtain a passing score on an examination in this state required to receive a license to practice the profession for which he or she is applying; or

(d) Is under investigation in another jurisdiction for an act that would constitute a violation of the applicable licensing chapter or this chapter until the investigation is complete and all charges against him or her are disposed of by dismissal, nolle prosequi, or acquittal.

(6) The department shall, by rule, set an application fee not to exceed $50 and a renewal fee not to exceed $50.

(7) Application shall be made on a form prescribed and furnished by the department.

(8) The department shall adopt rules to administer this section.

Section 4. Section 489.1131, Florida Statutes, is created to read:

489.1131 Credit for relevant military training and education.—

(1) The department shall provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran-specific application and provide:

(a) To the fullest extent possible, credit toward the requirements for licensure for military experience, training, and education received and completed during service in the United States Armed Forces if the military experience, training, or education is substantially similar to the experience, training, or education required for licensure.

(b) Acceptance of up to 3 years of active duty service in the United States Armed Forces, regardless of duty or training,

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to meet the experience requirements of s. 489.111(2)(c). At least 1 additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement of s. 489.111(2)(c).

The board may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

(2) Notwithstanding any other law, beginning October 1, 2017, and annually thereafter, the department, in conjunction with the board, is directed to prepare and submit a report titled "Construction and Electrical Contracting Veteran Applicant Statistics" to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include statistics and information relating to this section and s. 489.5161 which detail:

(a) The number of applicants who identified themselves as veterans.

(b) The number of veterans whose application for a license was approved.

(c) The number of veterans whose application for a license was denied, including the reasons for denial.

(d) Data on the application processing times for veterans.

(e) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license regulated by the department pursuant to part I of this chapter.

Section 5. Paragraph (b) of subsection (1) of section 489.511, Florida Statutes, is amended to read:


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489.511 Certification; application; examinations; endorsement.—

(1)

(b) Any person desiring to be certified as a contractor shall apply to the department in writing and must meet the following criteria:

1. Be of good moral character;

2. Pass the certification examination, achieving a passing grade as established by board rule; and

3. Meet eligibility requirements according to one of the following criteria:

a. Has, within the 6 years immediately preceding the filing of the application, at least 3 years of ~~years'~~ proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent;

b. Has, within the 8 years immediately preceding the filing of the application, at least 4 years of ~~years'~~ experience as a supervisor or contractor in the trade for which he or she is making application, or at least 4 years of experience as a supervisor in electrical or alarm system work with the United States Armed Forces;

c. Has, within the 12 years immediately preceding the filing of the application, at least 6 years of comprehensive training, technical education, or supervisory experience associated with an electrical or alarm system contracting business, or at least 6 years of technical experience, education, or training in electrical or alarm system work with the United States Armed Forces or a governmental entity;


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d. Has, within the 12 years immediately preceding the filing of the application, been licensed for 3 years as a professional engineer who is qualified by education, training, or experience to practice electrical engineering; or

e. Has any combination of qualifications under sub-subparagraphs a.-c. totaling 6 years of experience.

Section 6. Section 489.5161, Florida Statutes, is created to read:

489.5161 Credit for relevant military training and education.—

(1) The department shall provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran-specific application and provide, to the fullest extent possible, credit toward the requirements for licensure for military experience, training, and education received and completed during service in the United States Armed Forces if the military experience, training, or education is substantially similar to the experience, training, or education required for licensure. The board may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

(2) Notwithstanding any other law, beginning October 1, 2017, and annually thereafter, the department, in conjunction with the board, is directed to prepare and submit a report titled "Construction and Electrical Contracting Veteran Applicant Statistics" to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include statistics and information relating to this section and s. 489.1131 which detail:

(a) The number of applicants who identified themselves as


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veterans.

(b) The number of veterans whose application for a license was approved.

(c) The number of veterans whose application for a license was denied, including data on the reasons for denial.

(d) Data on the application processing times for veterans.

(e) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license regulated by the department pursuant to part II of this chapter.

Section 7. Section 493.61035, Florida Statutes, is created to read:

493.61035 Credit for relevant military training and education.—

(1) The department shall provide a method by which honorably discharged veterans may apply for licensure. The method must include:

(a) To the fullest extent possible, credit toward the requirements for licensure for military training and education received and completed during service in the United States Armed Forces if the military training or education is substantially similar to the training or education required for licensure.

(b) Identification of overlaps and gaps between the requirements for licensure and the military training or education received and completed by the veteran, and subsequent notification to the veteran of the overlaps and gaps.

(c) Assistance in identifying programs that offer training and education needed to meet the requirements for licensure.

(2) Notwithstanding any other law, beginning October 1, 2017, and annually thereafter, the department is directed to prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition to any other information that the Legislature may require, the report must include statistics and relevant information that detail:

(a) The number of applicants who identified themselves as veterans.

(b) The number of veterans whose application for a license was approved.

(c) The number of veterans whose application for a license was denied, including the reasons for denial.

(d) Data on the application processing times for veterans.

(e) The department's efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure.

(f) The department's identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veterans.

(g) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or an occupation regulated by the department pursuant to this chapter.

Section 8. (1) The Department of Highway Safety and Motor Vehicles and the Department of Military Affairs shall jointly conduct a pilot program to provide onsite commercial motor


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vehicle driver license testing opportunities to qualified members of the Florida National Guard pursuant to the Department of Highway Safety and Motor Vehicles commercial motor vehicle driver license skills test waiver under s. 322.12, Florida Statutes. Testing must be held at a Florida National Guard armory, a Florida United States Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to each department.

(2) By June 30, 2017, the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs shall jointly submit a report on the results of the pilot program to the President of the Senate and the Speaker of the House of Representatives.

(3) This section is repealed October 1, 2017, and shall not be codified in the Florida Statutes.

Section 9. This act shall take effect July 1, 2016.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to credit for relevant military service; amending s. 401.27, F.S.; revising the application requirements for emergency medical technician or paramedic certification; amending s. 456.024, F.S.; directing the Department of Health, or the applicable board pursuant to chapter 456, F.S., to

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issue health care practitioner licenses to eligible military health care practitioners and eligible health care practitioners who are spouses of active duty servicemembers; creating s. 456.0241, F.S.; defining terms; directing the Department of Health to issue temporary certificates to eligible active duty military health care practitioners; providing requirements for temporary certification; providing for expiration of such certification; providing exemptions; directing the department to set application and renewal fees, develop and furnish an application form, and adopt rules; creating s. 489.1131, F.S.; directing the Department of Business and Professional Regulation to provide a method by which honorably discharged veterans may apply for construction contracting licensure; authorizing the Construction Industry Licensing Board to adopt rules; directing the department, in conjunction with the board, to annually prepare and submit a specified report to the Governor and the Legislature; amending s. 489.511, F.S.; revising eligibility criteria for taking the electrical or alarm system contractor certification examination; creating s. 489.5161, F.S.; directing the Department of Business and Professional Regulation to provide a method by which honorably discharged veterans may apply for electrical or alarm system contracting licensure; authorizing the Electrical Contractors' Licensing Board to adopt rules; directing the department, in conjunction with


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the board, to annually prepare and submit a specified report to the Governor and the Legislature; creating s. 493.61035, F.S.; directing the Department of Agriculture and Consumer Services to provide a method by which honorably discharged veterans may apply for private investigative, private security, and repossession services licensure; authorizing the department to adopt rules; directing the department to annually prepare and submit a specified report to the Governor and the Legislature; directing the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs to conduct a commercial motor vehicle driver license testing pilot program; specifying testing locations and funding; requiring the departments to submit a report to the Legislature by a specified date; providing for repeal of the program; providing an effective date.

By Senator Bean

4-01387-16 20161504__

A bill to be entitled

An act relating to credit for relevant military service; amending s. 456.024, F.S.; providing for the issuance of a license to practice under certain conditions to a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the military; providing for the issuance of a temporary professional license under certain conditions to the spouse of an active duty member of the Armed Forces of the United States who is a health care practitioner in a profession for which licensure in a state or jurisdiction may not be required; deleting the requirement that an applicant who is issued a temporary professional license to practice as a dentist must practice under the indirect supervision of a licensed dentist; creating s. 489.1131, F.S.; requiring the Construction Industry Licensing Board to provide a method by which honorably discharged veterans may apply for licensure; providing for extension of credit toward licensing requirements for substantially similar military training and education; requiring identification and notification of overlaps and gaps between license requirements and the military training and education received by the applicant; requiring the Department of Business and Professional Regulation to provide an annual report to the Governor and Legislature; providing requirements for the annual report; creating s. 489.5161, F.S.; requiring the Electrical Contractors' Licensing Board to provide a method by which honorably discharged veterans may apply for licensure; providing for extension of credit

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toward licensing requirements for substantially similar military training and education; requiring identification and notification of overlaps and gaps between license requirements and the military training and education received by the applicant; requiring the Department of Business and Professional Regulation to annually report to the Governor and Legislature; providing requirements for the annual report; creating s. 493.61035, F.S.; requiring the Department of Agriculture and Consumer Services to adopt rules providing a method by which honorably discharged veterans may apply for licensure pursuant to ch. 493, F.S.; providing for extension of credit toward licensing requirements for substantially similar military training and education; requiring identification and notification of overlaps and gaps between license requirements and the military training and education received by the applicant; requiring an annual report to the Governor and Legislature; providing requirements for the annual report; requiring the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs to create a commercial driver license testing pilot program; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) and paragraphs (a) and (j) of subsection (4) of section 456.024, Florida

Statutes, are amended to read:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(3) A person who serves or has served as a health care practitioner in the United States Armed Forces, United States Reserve Forces, or the National Guard or a person who serves or has served on active duty with the United States Armed Forces as a health care practitioner in the United States Public Health Service is eligible for licensure in this state. The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(a) The board, or department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

2. Receives an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the military, who

provides evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession, and who obtained a passing score on the appropriate examination of a national standards organization when required for licensure in this state.

4. Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.

6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(4)(a) The board, or the department if there is no board, may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:

1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules;

2. The required application fee;

3. Proof that the applicant is married to a member of the

Armed Forces of the United States who is on active duty;

4. Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States~~,~~ and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter or is a health care practitioner in a profession for which licensure in a state or jurisdiction may or may not be required, who provides evidence of training or experience substantially equivalent to the requirements for licensure in this state in that profession, and who obtained a passing score on the appropriate examination of a national standards organization when required for licensure in this state; and

5. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders~~; and~~

~~6. Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida~~.

~~(j) An applicant who is issued a temporary professional license to practice as a dentist pursuant to this section must practice under the indirect supervision, as defined in s. 466.003, of a dentist licensed pursuant to chapter 466.~~

Section 2. Section 489.1131, Florida Statutes, is created to read:

489.1131 Credit for relevant military training and education.-

(1) The board shall provide a method by which honorably discharged veterans may apply for licensure. The method must include:

(a) Extension of credit to the fullest extent possible toward the requirements for licensure for military training or education received and completed during service in the Armed Forces of the United States if the training or education is substantially similar to the training or education required for licensure.

(b) Identification of overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants and subsequent notification to the applicant of the overlaps and gaps.

(c) Assistance in identifying programs that offer training and education needed to meet requirements for licensure.

(2) Notwithstanding any other provision of law, beginning October 1, 2017, and annually thereafter, in conjunction with the board, the department is directed to prepare and submit a report titled "Construction and Electrical Contracting Veteran Applicant Statistics" to the President of the Senate, the Speaker of the House of Representatives, and the Governor. The report must include statistics and information relating to this section and s. 489.5161 which detail:

(a) The number of applicants who identified themselves as veterans;

(b) The number of veterans whose application for a license was approved;

(c) The number of veterans whose application for a license

was denied, including the reasons for denial;

(d) Data on the application processing times for veterans;

(e) The boards' efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure;

(f) The boards' identification of the most common overlaps and gaps between requirements for licensure and the military training and education received and completed by the veteran applicants; and

(g) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license regulated by the department pursuant to chapter 489, part I.

Section 3. Section 489.5161, Florida Statutes, is created to read:

489.5161 Credit for relevant military training and education.-

(1) Each board shall provide a method by which honorably discharged veterans may apply for licensure. The method shall include:

(a) Extension of credit to the fullest extent possible toward the requirements for licensure for military training or education received and completed during service in the Armed Forces of the United States if the training or education is substantially similar to the training or education required for licensure.

(b) Identification of overlaps and gaps between the requirements for licensure and the military training and

education received and completed by veteran applicants and subsequent notification to the applicant of the overlaps and gaps.

(c) Assistance in identifying programs that offer training and education needed to meet requirements for licensure.

(2) Notwithstanding any other provision of law, beginning October 1, 2017, and annually thereafter, in conjunction with the board, the department is directed to prepare and submit a report titled "Construction and Electrical Contracting Veteran Applicant Statistics" to the President of the Senate, the Speaker of the House of Representatives, and the Governor. The report shall include statistics and information relating to this section and s. 489.1131 detailing:

(a) The number of applicants who identified themselves as veterans;

(b) The number of veterans whose application for a license was approved;

(c) The number of veterans whose applications for a license were denied, including data on the reasons for denial;

(d) Data on the application processing times for veterans;

(e) The boards' efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure;

(f) The boards' identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants; and

(g) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively

address the challenges that veterans face when separating from military service and seeking a license regulated by the department pursuant to chapter 489, part II.

Section 4. Section 493.61035, Florida Statutes, is created to read:

493.61035 Credit for relevant military training and education.—

(1) The department shall provide a method by which honorably discharged veterans may apply for licensure. The method must include:

(a) Extension of credit to the fullest extent possible toward the requirements for licensure for military training or education received and completed during service in the Armed Forces of the United States if the training or education is substantially similar to the training or education required for licensure.

(b) Identification of overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants and subsequent notification to the applicant of the overlaps and gaps.

(c) Assistance in identifying programs that offer training and education needed to meet requirements for licensure.

(2) Notwithstanding any other provision of law, beginning October 1, 2017, and annually thereafter, the department is directed to prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor. In addition to any other information the Legislature may require, the report must include statistics and relevant

information that detail:

(a) The number of applicants who identified themselves as veterans;

(b) The number of veterans whose application for a license was approved;

(c) The number of veterans whose application for a license was denied, including the reasons for denial;

(d) Data on the application processing times for veterans;

(e) The department's efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure;

(f) The department's identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants; and

(g) Recommendations on ways to improve the department's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated by the department pursuant to chapter 493.

Section 5. National Guard commercial motor vehicle driver license testing pilot program.—

(1) Beginning July 1, 2017, the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs shall jointly conduct a pilot program to provide onsite commercial driver license testing opportunities to qualified members of the Florida National Guard pursuant to the Department of Highway Safety and Motor Vehicles commercial driver license skills test waiver under s. 322.12, Florida Statutes. Testing

must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to the departments.

(2) By June 30, 2018, the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs shall jointly submit a report on the pilot program to the President of the Senate and the Speaker of the House of Representatives.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Alan Hays, Chair
Appropriations Subcommittee on General Government

Subject: Committee Agenda Request

Date: February 3, 2016

I respectfully request that **Senate Bill # 1504**, relating to Credit for Relevant Military Service, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Appropriations Subcommittee on General Government **Judge:**

Started: 2/24/2016 1:35:28 PM
Ends: 2/24/2016 2:27:30 PM Length: 00:52:03

1:35:44 PM Sen. Braynon (Chair)
1:36:39 PM S 1152
1:36:44 PM Sen. Diaz de la Portilla
1:37:33 PM Laura Youmans, Florida Association of Counties (waives in support)
1:37:37 PM Jess McCarty, Miami-Dade County (waives in support)
1:38:28 PM S 1248
1:38:31 PM Sen. Diaz de la Portilla
1:43:32 PM Lieutenant Governor Carlos Lopez-Cantera, Florida
1:44:53 PM Ashley Kalifeh, Lobbyist, Florida Justice Reform Institute
1:46:21 PM Brian Christensen, Owner, Restoration 1 of Central Florida (waives in support)
1:46:33 PM Don Phillips, President, Florida Association of Public Insurance Adjusters
1:46:41 PM Paul Handerhan, Consultant, The Florida Association for Insurance Reform (waives in support)
1:46:50 PM Mark Delegal, Counsel, State Farm Florida Insurance Company
1:50:41 PM Lisa Miller, Security First Insurance Company (waives in support)
1:50:51 PM Foyt Ralston, Florida Association of Restoration Specialist
1:51:48 PM Christine Ashburn, Vice President, Legislative Affairs, Citizens Property Insurance Corporation
1:53:39 PM Sen. Diaz de la Portilla
1:54:21 PM S 1106
1:54:38 PM Am. 451028
1:54:49 PM Sen. Flores
1:56:15 PM Am. 334080
1:56:45 PM Sen. Flores
1:57:08 PM Am. 451028 (cont.)
1:57:37 PM S 1106 (cont.)
1:57:44 PM Raquel Rodriguez, Attorney, Florida International Administrators Association (waives in support)
1:57:54 PM Slater Batliss, The Florida International Administrators Association (waives in support)
1:58:47 PM S 1430
1:59:04 PM Trent Phillips, Legislative Aide for Sen. Brandes
1:59:22 PM Am. 946636
1:59:33 PM T. Phillips
2:00:13 PM Am. 518650
2:00:22 PM T. Phillips
2:00:46 PM Am. 946636 (cont.)
2:01:10 PM Am. 931850
2:01:17 PM T. Phillips
2:01:44 PM S 1430 (cont.)
2:01:53 PM James Taylor, Executive Director, Florida Technology Council (waives in support)
2:02:42 PM S 1504
2:02:48 PM Sen. Bean
2:04:15 PM Am. 813092
2:04:28 PM Sen. Bean
2:05:09 PM S 1504 (cont.)
2:06:02 PM S 1192
2:06:10 PM Amy Nicotra, Legislative Aide for Sen. Hays
2:07:08 PM Am. 751884
2:07:17 PM A. Nicotra
2:07:48 PM S 1192 (cont.)
2:07:53 PM Charlie Latham, Government Affairs, Waste Management Inc. of Florida (waives in support)
2:08:05 PM Erin Ballas, National Waste & Recycling Association (waives in support)
2:08:12 PM Samantha Padgett, VP/General Counsel, Florida Retail Federation (waives in support)
2:09:35 PM S 1290
2:09:43 PM Sen. Simpson

2:10:13 PM Am. 647570
2:10:26 PM Am. 631368
2:10:28 PM Sen. Simpson
2:11:06 PM Am. 588592
2:11:16 PM Sen. Simpson
2:11:44 PM Janet Bowman, Director of Legislative Policy & Strategies, The Nature Conservancy (speaks in support)
2:12:08 PM Eric Draper, Rep. Audubon (waives in support)
2:12:25 PM Am. 631368 (cont.)
2:12:42 PM S 1290 (cont.)
2:12:58 PM Janet Bowman, Director of Legislative Policy & Strategies, The Nature Conservancy (speaks in support)
2:13:23 PM Andrew Ketchel, Director of Legislative Affairs, Dept. of Environmental Protection (waives in support)
2:13:35 PM Penny Walker Bos, Executive Director, League of Women Voters of Florida (speaks against)
2:15:39 PM Catherine Baer, Chair, The Tea Party Network (waives in support)
2:15:47 PM John Hallman, Legislative Affairs Director, Liberty First (waives in support)
2:15:52 PM Stephanie Kunkel, Conservancy of Southwest Florida (speaks against)
2:17:09 PM David Cullen, Sierra Club Florida (speaks against)
2:20:17 PM Gail Marie Perry, Chair, Communications Workers of America, Council of FL (speaks against)
2:21:09 PM Eric Draper
2:22:51 PM S 1274
2:22:54 PM Sen. Latvala
2:25:01 PM Am. 906798
2:25:17 PM Am. 382928
2:25:18 PM Sen. Latvala
2:25:46 PM S 1274 (cont.)
2:25:54 PM Paul Handerhan, Consultant, Florida Association For Insurance Reform (waives in support)
2:25:58 PM Sen. Simpson
2:26:55 PM Sen. Simpson motion to show voting favorable on S 1192
2:27:15 PM Meeting Adjourned