2022 Florida Statutes and Rules

Chapters 16, 119, 120, 285, 550, 551, and 849.
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CHAPTER 16
FLORIDA GAMING CONTROL COMMISSION

16.71 FLORIDA GAMING CONTROL COMMISSION; CREATION; MEETINGS; MEMBERSHIP

(1) CREATION; MEETINGS.—
(a) There is created within the Department of Legal Affairs, Office of the Attorney General, the Florida Gaming Control Commission, hereinafter referred to as the commission. The commission shall be a separate budget entity, and the commissioners shall serve as the agency head. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by law.
(b) The commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including, but not limited to, personnel, purchasing transactions involving real or personal property, and budgetary matters.
(c) The commission shall convene at the call of its chair or at the request of a majority of the members of the commission. Meetings may be held via teleconference or other electronic means. Three members of the commission constitute a quorum, and the affirmative vote of the majority of a quorum is required for any action or recommendation by the commission. However, notwithstanding any other provision of law, the affirmative vote of three members is required to adopt a proposed rule, including an amendment to or repeal of an existing rule that meets or exceeds any of the criteria in s. 120.54(3)(b)1. or s. 120.541(2)(a). The commission may meet in any city or county of the state.
(2) MEMBERSHIP.—
(a) The commission shall consist of five members appointed by the Governor, and subject to confirmation by the Senate, for terms of 4 years. Members of the commission must be appointed by January 1, 2022. The Governor shall consider appointees who reflect Florida's racial, ethnic, and gender diversity. Of the initial five members appointed by the Governor, and immediately upon appointment, the Governor shall appoint one of the members as the initial chair and one of the members as the initial vice chair. At the end of the initial chair's and vice chair's terms pursuant to subparagraph 1., the commission shall elect one of the members of the commission as chair and one of the members of the commission as vice chair.
1. For the purpose of providing staggered terms, of the initial appointments, two members shall be appointed to 4-year terms, two members shall be appointed to 3-year terms, and one member shall be appointed to a 2-year term.
2. Of the five members, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for at least the preceding 10 years.
(b) A commissioner shall serve until a successor is appointed, but commissioners may not serve more than 12 years. Vacancies shall be filled for the unexpired portion of the term. The salary of each commissioner is equal to that paid under state law to a commissioner on the Florida Public Service Commission.
(c) The Governor shall have the same power to remove or suspend commissioners as set forth in s. 7, Art. IV of the State Constitution. In addition to such power, the Governor must remove a member who is convicted of or found guilty of or has pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor that directly relates to gambling, dishonesty, theft, or fraud.
(d) Upon the resignation or removal from office of a member of the commission, the Governor shall appoint a successor pursuant to paragraph (a) who, subject to confirmation by the Senate, shall serve the remainder of the unfinished term.
(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—
(a) A person may not be appointed by the Governor to the commission until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the Governor, and the Governor determines that the person meets all the requirements for appointment under this section. However, a person who is prohibited from being appointed under s. 16.713 may not be appointed by the Governor.
(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:
1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; an officer, official, or employee of such permitholder or licensee; or an ultimate equitable owner, as defined in s. 550.002(36), of such permitholder or licensee;
2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 550.002(36), of such entity; or
3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.
(4) EXECUTIVE DIRECTOR.—
(a) To aid the commission in its duties, the commission must appoint a person who is not a member of the commission to serve as the executive director of the commission. A person may not be appointed as executive director until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the commission, and the commission determines that the person meets all the requirements for appointment as the executive director. The executive director shall supervise, direct, coordinate, and administer all activities necessary to fulfill the commission's responsibilities. The commission must appoint the executive director by April 1, 2022.
(b) The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations.
(c) The executive director shall maintain headquarters in and reside in Leon County.
(d) The salary of the executive director is equal to that paid under state law to a commissioner on the Florida Public Service Commission.
(5) INSPECTOR GENERAL.—The chair of the commission shall appoint an inspector general who shall perform the duties of an inspector general under s. 20.055.
(6) PARI-MUTUEL WAGERING TRUST FUND.—The commission shall administer the Pari-mutuel Wagering Trust Fund.
History.—s. 2, ch. 2021-269; s. 1, ch. 2022-7; s. 1, ch. 2022-179.

16.711 DIVISION OF GAMING ENFORCEMENT; CREATION; DUTIES

(1) There is created within the Florida Gaming Control Commission a Division of Gaming Enforcement. The Division of Gaming Enforcement shall be considered a criminal justice agency as defined in s. 943.045.

(2) The commissioners shall appoint a director of the Division of Gaming Enforcement who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the division.

(3) The director and all investigators employed by the division must meet the requirements for employment and appointment provided by s. 943.13 and must be certified as law enforcement officers as defined in s. 943.10(1). The director and such investigators shall be designated law enforcement officers and shall have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, or any rule adopted pursuant thereto, or any law of this state. Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission shall also have access to, and shall have the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.

(4)(a) The division and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. For purposes of this section, the term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2.

(b) The division is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this paragraph.

(c) This subsection does not limit the authority of any other person authorized by law to seize contraband.

(5) The Department of Law Enforcement shall provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the executive director of the commission and agreed to by the executive director of the Department of Law Enforcement. Any other state agency, including the Department of Business and Professional Regulation and the Department of Revenue, shall, upon request, provide the commission with any information relevant to any investigation conducted pursuant to this section. The commission shall reimburse any agency for the actual cost of providing any assistance pursuant to this subsection.

History.—s. 3, ch. 2021-269.

16.712 FLORIDA GAMING CONTROL COMMISSION AUTHORIZATIONS, DUTIES, AND RESPONSIBILITIES

(1) The commission shall do all of the following:

(a) Exercise all of the regulatory and executive powers of the state with respect to gambling, including, without limitation thereto, pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding games authorized by s. 15, Art. X of the State Constitution.

(b) Establish procedures consistent with chapter 120 to ensure adequate due process in the exercise of its regulatory and executive functions.

(c) Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849.

(d) Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribal Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.

(e) Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission related to any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events; any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and the use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission, and provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of nonproprietary information that may warrant further investigation by such entities to ensure the integrity of wagering activities in the state.

(f) Review any matter within the scope of the jurisdiction of the commission.

(g) Review the regulation of licensees, permitholders, or persons regulated by the commission and the procedures used by the commission to implement and enforce the law.

(h) Review the procedures of the commission which are used to qualify applicants applying for a license, permit, or registration.

(i) Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under chapter 24, part II of chapter 285, chapter 550, chapter 551, or chapter 849 and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.

(j) Refer criminal violations of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.

(k) Exercise all other powers and perform any other duties prescribed by the Legislature.

(2)(a) The commission may adopt rules to implement this section.

(b) The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers.

(c) The commission may submit written recommendations to enhance the enforcement of gaming laws of the state to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) By December 1 of each year, the commission shall make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include all of the following:

(a) Recent events in the gaming industry, including pending litigation, pending facility license applications, and new and pending rules.
(b) Actions of the commission relative to the implementation and administration of this section.
(c) The state revenues and expenses associated with each form of authorized gaming. Revenues and expenses associated with pari-mutuel wagering shall be further delineated by the class of license.
(d) The performance of each pari-mutuel wagering licensee, cardroom licensee, and slot licensee.
(e) Actions of the commission as the state compliance agency, and financial information published by the Office of Economic and Demographic Research, relative to gaming activities authorized pursuant to s. 285.710(13).
(f) A summary of disciplinary actions taken by the commission.
(g) The receipts and disbursements of the commission.
(h) A summary of actions taken and investigations conducted by the commission.
(i) Any additional information and recommendations that the commission considers useful or that the Governor, the President of the Senate, or the Speaker of the House of Representatives requests.
(4) The commission shall annually develop a legislative budget request pursuant to chapter 216. Such request is not subject to change by the Department of Legal Affairs or the Attorney General, but shall be submitted by the Department of Legal Affairs to the Governor for transmittal to the Legislature.
(5) The commission is authorized to contract or consult with appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties.
(6) The commission shall exercise all of its regulatory and executive powers and shall adopt, apply, construe, and interpret all laws and administrative rules in a manner consistent with the gaming compact ratified, approved, and described in s. 285.710(3).
(7) The commission shall confirm, prior to the issuance of an operating license, that each permitholder has submitted proof with their annual application for a license, in such a form as the commission may require, that the permitholder continues to possess the qualifications prescribed by chapter 550, and that the permit has not been disapproved by voters in an election.
History.—s. 4, ch. 2021-269; s. 2, ch. 2022-7.

16.713 FLORIDA GAMING CONTROL COMMISSION; APPOINTMENT AND EMPLOYMENT RESTRICTIONS

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—The following persons are ineligible for appointment to the commission:
(a) A person who holds any office in a political party.
(b) A person who within the previous 10 years has been convicted of or found guilty of or has pled nolo contendere to, regardless of adjudication, in any jurisdiction, any felony, or a misdemeanor that directly related to gambling, dishonesty, theft, or fraud.
(c) A person who has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a crime listed in s. 775.21(4)(a)1. or s. 776.08.
(d) A person who has had a license or permit issued under chapter 550, chapter 551, or chapter 849 or a gaming license issued by any other jurisdiction denied, suspended, or revoked.
(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—
(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:
1. Hold a permit or license issued under chapter 550 or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(36), of such permitholder or licensee;
2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(36), of such entity;
3. Be a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission or unless the person registered as a lobbyist for the executive or legislative branch while employed by a state agency as defined in s. 110.107 during the normal course of his or her employment with such agency and he or she has not lobbied on behalf of any entity other than a state agency during the 2 years immediately preceding the date of his or her appointment to or employment with the commission; or
4. Be a bingo game operator or an employee of a bingo game operator.
(b) A person is ineligible for appointment to or employment with the commission if, within the 2 years immediately preceding such appointment or employment, he or she violated paragraph (a) or solicited or accepted employment with, acquired any direct or indirect interest in, or had any direct or indirect business association, partnership, or financial relationship with, or is a relative of:
1. Any person or entity who is an applicant, licensee, or registrant with the commission; or
2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; any contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or any ultimate equitable owner, as defined in s. 550.002(36), of such entity.
(c) A person who is ineligible for employment with the commission under paragraph (b) due to being a relative of a person listed under subparagraph (b)1. or subparagraph (b)2. may submit a waiver request to the commission for the person to be considered eligible for employment. The commission shall consider waiver requests on a case-by-case basis and shall approve or deny each request. If the commission approves the request, the person is eligible for employment with the commission. This paragraph does not apply to persons seeking appointment to the commission.
For the purposes of this subsection, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
(3) PERSONS INELIGIBLE FOR EMPLOYMENT WITH THE COMMISSION.—
(a) A person is ineligible for employment with the commission if he or she has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a felony within 5 years before the date of application; convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor within 5 years before the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or dismissed from prior employment for gross misconduct or incompetence or intentionally making a false statement concerning a material fact in connection with the application for employment to the commission.
(b) If an employee of the commission is charged with a felony while employed by the commission, the commission shall suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee of the commission is charged with a misdemeanor while employed by the commission, the

commission shall suspend the employee, with or without pay, and may terminate employment with the commission upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

(4) NOTIFICATION REQUIREMENTS.—

(a) A commissioner or an employee of the commission must notify the commission within 3 calendar days after arrest for any offense.

(b) A commissioner or an employee must immediately provide detailed written notice of the circumstances to the commission if the member or employee is indicted, charged with, convicted of, pleads guilty or nolo contendere to, or forfeits bail for:

1. A misdemeanor involving gambling, dishonesty, theft, or fraud;

2. A violation of any law in any state, or a law of the United States or any other jurisdiction, involving gambling, dishonesty, theft, or fraud which would constitute a misdemeanor under the laws of this state; or

3. A felony under the laws of this or any other state, the United States, or any other jurisdiction.

History.—s. 5, ch. 2021-269; s. 3, ch. 2022-7; s. 2, ch. 2022-179.

16.714 FLORIDA GAMING CONTROL COMMISSION BACKGROUND SCREENING REQUIREMENTS; INVESTIGATIONS BY THE DIVISION OF GAMING ENFORCEMENT

(1) LEVEL 2 BACKGROUND SCREENINGS.—The Department of Law Enforcement shall, at the request of the Division of Gaming Enforcement, perform a level 2 background screening pursuant to chapter 435 on an employee of the division and on any other employee of the commission for which the commission deems a level 2 background screening necessary, including applicants for employment. The commission shall reimburse the Department of Law Enforcement for the actual costs of such investigations.

(2) LEVEL 1 BACKGROUND SCREENINGS.—The Department of Law Enforcement shall, at the request of the division, perform a level 1 background screening pursuant to chapter 435 on any employee of the commission, including applicants for employment, who is not listed in subsection (1).

(3) INVESTIGATIONS.—The division shall conduct investigations of members and employees of the commission, including applicants for contract or employment, as are necessary to ensure the security and integrity of gaming operations in this state. The commission may require persons subject to such investigations to provide such information, including fingerprints, as is needed by the Department of Law Enforcement for processing or as is otherwise necessary to facilitate access to state and federal criminal history information.

History.—s. 6, ch. 2021-269.

16.715 FLORIDA GAMING CONTROL COMMISSION STANDARDS OF CONDUCT; EX PARTE COMMUNICATIONS

(1) STANDARDS OF CONDUCT.—

(a) In addition to the provisions of part III of chapter 112, which are applicable to commissioners on and employees with the Florida Gaming Control Commission by virtue of their being public officers and public employees, the conduct of commissioners and employees shall be governed by the standards of conduct provided in this subsection. Nothing shall prohibit the standards of conduct from being more restrictive than part III of chapter 112. Further, this subsection may not be construed to contravene the restrictions of part III of chapter 112. In the event of a conflict between this subsection and part III of chapter 112, the more restrictive provision shall apply.

(b)1. A commissioner or employee of the commission may not accept anything from any business entity that, either directly or indirectly, owns or controls any person regulated by the commission or from any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

2. A commissioner or an employee may attend conferences, along with associated meals and events that are generally available to all conference participants, without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner or an employee may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any person regulated by the commission and that are limited to commissioners or employees only, committee members, or speakers if the commissioner or employee is a member of a committee of the association of regulatory agencies which organized the conference or is a speaker at the conference. It is not a violation of this subparagraph for a commissioner or an employee to attend a conference for which conference participants who are employed by a person regulated by the commission have paid a higher conference registration fee than the commissioner or employee, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a person regulated by the commission.

3. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner or an employee may not accept any form of employment with or engage in any business activity with any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; any person regulated by the commission; or any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

4. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner, an employee, or a relative living in the same household as a commissioner or an employee may not have any financial interest, other than shares in a mutual fund, in any person regulated by the commission; in any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; or in any business entity that, either directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission. If a commissioner, an employee, or a relative living in the same household as a commissioner or an employee acquires any financial interest prohibited by this subsection during the commissioner's term of office or the employee's employment with the commission as a result of events or actions beyond the commissioner's, the employee's, or the relative's control, he or she shall immediately sell such financial interest. For the purposes of this subsection, the term "relative" has the same meaning as in s. 16.713(2)(b).

5. A commissioner or an employee may not accept anything from a party in a proceeding currently pending before the commission.

6. A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

7. A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

8. A commissioner or an employee may not act in an unprofessional manner at any time during the performance of official duties.

9. A commissioner or an employee must avoid impropriety in all activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.

10. A commissioner or an employee may not directly or indirectly, through staff or other means, solicit anything of value from any person regulated by the commission, or from any business entity that, whether

directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.

11. A commissioner may not lobby the Governor or any agency of the state, members or employees of the Legislature, or any county or municipal government or governmental agency except to represent the commission in an official capacity.

(c) A commissioner or an employee of the commission must annually complete at least 4 hours of ethics training that addresses, at a minimum, s. 8, Art. II of the State Constitution; the Code of Ethics for Public Officers and Employees; and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subjects are covered.

(d) The Commission on Ethics shall accept and investigate any alleged violations of this subsection pursuant to the procedures contained in ss. 112.322-112.3241. The Commission on Ethics shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112. A commissioner or an employee of the commission may request an advisory opinion from the Commission on Ethics, pursuant to s. 112.322(3)(a), regarding the standards of conduct or prohibitions set forth in this section or s. 16.71.

(e)1. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this subsection, allegations are made as to the identity of the person giving or providing the prohibited thing, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense.

2. If the Commission on Ethics determines that the person gave or provided a prohibited thing, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

(f) A commissioner, an employee of the commission, or a relative living in the same household as a commissioner or an employee may not place a wager in any facility licensed by the commission or any facility in the state operated by an Indian tribe that has a valid and active compact with the state.

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(a) A commissioner, the executive director, and an employee of the commission may not personally represent another person or entity for compensation before the executive or legislative branch for a period of 2 years following the commissioner's or executive director's end of service or a period of 2 years following employment unless employed by another agency of state government.

(b) A commissioner may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(36), of such permitholder or licensee;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's resignation or termination of service on the commission; or

3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(36), of such permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game operator.

(d) Any person violating paragraph (b) or paragraph (c) shall be subject to the penalties for violations of standards of conduct for public officers, employees of agencies, and local government attorneys provided in s. 112.317 and a civil penalty of an amount equal to the compensation that the person receives for the prohibited conduct.

(3) EX PARTE COMMUNICATIONS.—

(a) As used in this section, the term "ex parte communication" means any communication that:

1. If it is a written or printed communication or is a communication in electronic form, is not served on all parties to a proceeding; or

2. If it is an oral communication, is made without adequate notice to the parties and without an opportunity for the parties to be present and heard.

(b) A commissioner may not initiate or consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding that is currently pending before the commission. An individual may not discuss ex parte with a commissioner the merits, threat, or offer of reward regarding any issue in a proceeding that is pending before the commission. This paragraph does not apply to commission staff.

(c) If a commissioner knowingly receives an ex parte communication relative to a proceeding to which the commissioner is assigned, the commissioner must place on the record of the proceeding copies of all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall give written notice to all parties to the communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if deemed by such commissioner to be necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair shall substitute another commissioner for the proceeding.

(d) Any individual who makes an ex parte communication shall submit to the commission a written statement describing the nature of such communication, to include the name of the person making the communication, the name of the commissioner or commissioners receiving the communication, copies of all written communications made, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made. The commission shall place on the record of a proceeding all such communications.

(e) Any commissioner who knowingly fails to place on the record any such communications in violation of this subsection within 15 days after the date of such communication is subject to removal and may be assessed a civil penalty not to exceed $5,000.

(f)1. It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this subsection pursuant to the procedures contained in ss. 112.322-112.3241.

2. If the Commission on Ethics finds that there has been a violation of this subsection by a commissioner, it shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112, and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection. The Governor shall remove from office a

commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated this subsection in a separate matter.

3. If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to this subsection, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

4. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this subsection, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

History.—s. 7, ch. 2021-269; s. 4, ch. 2022-7.

16.716 FLORIDA GAMING CONTROL COMMISSION PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS

(1)(a) Any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency, as defined in s. 119.011, or a governmental entity in the performance of the commission's official duties and responsibilities. An agency or a governmental entity receiving such information from the commission shall maintain the exempt or confidential and exempt status of the information.

(b)1. Any portion of a meeting of the commission during which information that is exempt or confidential and exempt is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

a. The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

b. The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the commission.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record. Such recording shall be maintained by the commission.

2. Only members of the commission, Department of Legal Affairs staff, or commission staff supporting the commission's function and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information shall be allowed to attend the exempted portions of the commission meetings. The commission shall ensure that any closure of its meetings as authorized by this paragraph is limited so that the general policy of this state in favor of public meetings is maintained.

3. A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the information is no longer exempt or confidential and exempt.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2021-270.

SECTION 285 PART II
GAMING COMPACT

285.710 COMPACT AUTHORIZATION

(1) As used in this section, the term:
(a) "Compact" means the most recent ratified and approved gaming compact between the Seminole Tribe of Florida and the State of Florida.
(b) "Covered games" means the games authorized for the Seminole Tribe of Florida under the compact.
(c) "Documents" means books, records, electronic, magnetic and computer media documents, and other writings and materials, copies thereof, and information contained therein.
(d) "Indian Gaming Regulatory Act" or "IGRA" means the Indian Gaming Regulatory Act, Pub. L. No. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 et seq., and 18 U.S.C. ss. 1166-1168.
(e) "State" means the State of Florida.
(f) "State compliance agency" means the Florida Gaming Control Commission which is designated as the state agency having the authority to carry out the state's oversight responsibilities under the compact.
(g) "Tribe" means the Seminole Tribe of Florida or any affiliate thereof conducting activities pursuant to the compact under the authority of the Seminole Tribe of Florida.
(2)(a) The agreement executed by the Governor and the Tribe on November 14, 2007, published in the Federal Register on January 7, 2008, and subsequently invalidated by the Florida Supreme Court in the case of Florida House of Representatives, et al. v. The Honorable Charles J. Crist, No. SC07-2154, (2008), is not ratified or approved by the Legislature, is void, and is not in effect.
(b) The agreement executed by the Governor and the Tribe on August 28, 2009, and August 31, 2009, respectively, and transmitted to the President of the Senate and the Speaker of the House of Representatives, is not ratified or approved by the Legislature, is void, and is not in effect.
(3)(a) The gaming compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, was ratified and approved by chapter 2010-29, Laws of Florida.
(b) The gaming compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 23, 2021, as amended on May 17, 2021, is ratified and approved. The Governor shall cooperate with the Tribe in seeking approval of such compact ratified and approved under this paragraph from the United States Secretary of the Interior. Upon becoming effective, such compact supersedes the gaming compact ratified and approved under paragraph (a). If the gaming compact ratified and approved under this paragraph is not approved by the United States Secretary of the Interior or is invalidated by court action or change in federal law, the gaming compact ratified and approved under paragraph (a) shall remain in effect.
(4) The Governor shall preserve all documents, if any, which relate to the intent or interpretation of the compact and maintain such documents for at least the term of the compact.
(5) If any provision of the compact relating to covered games, revenue-sharing payments, suspension or reduction in payments, or exclusivity is held by a court of competent jurisdiction or by the Department of the Interior to be invalid, the compact is void.
(6) If a subsequent change to the Indian Gaming Regulatory Act, or to an implementing regulation thereof, mandates the retroactive application of such change without the respective consent of the state or Tribe, the compact is void if the change materially alters any provision in the compact relating to covered games, revenue-sharing payments, suspension or reduction of payments, or exclusivity.
(7) The Florida Gaming Control Commission is designated as the state compliance agency having the authority to carry out the state's oversight responsibilities under the compact authorized by this section.
(8)(a) The Governor is authorized to execute an agreement on behalf of the state with the Indian tribes in this state, acting on a government-to-government basis, to develop and implement a fair and workable arrangement to apply state taxes on persons and transactions on Indian lands. Such agreements shall address the imposition of specific taxes, including sales taxes and exemptions from those taxes.
(b) The agreement shall address the Tribe's collection and remittance of sales taxes imposed by chapter 212 to the Department of Revenue. The sales taxes collected and remitted by the Tribe shall be based on all sales to non-tribal members, except those non-tribal members who hold valid exemption certificates issued by the Department of Revenue, exempting the sales from taxes imposed by chapter 212.
(c) The agreement shall require the Tribe to register with the Department of Revenue and remit to the Department of Revenue the taxes collected.
(d) The agreement shall require the Tribe to retain for at least a period of 5 years records of all sales to non-tribal members which are subject to taxation under chapter 212. The agreement shall permit the Department of Revenue to conduct an audit not more often than annually in order to verify such collections. The agreement shall require the Tribe to provide reasonable access during normal operating hours to records of transactions subject to the taxes collected.
(e) The agreement shall provide a procedure for the resolution of any disputes about the amounts collected pursuant to the agreement. For purposes of the agreement for the collection and remittance of sales taxes, the agreement must provide that the Tribe agrees to waive its immunity, except that the state may seek monetary damages limited to the amount of taxes owed.
(f) An agreement executed by the Governor pursuant to the authority granted in this section shall not take effect unless ratified by the Legislature.
(9) The moneys paid by the Tribe to the state for the benefit of exclusivity under the compact ratified by this section shall be deposited into the General Revenue Fund. Three percent of the amount paid by the Tribe to the state shall be designated as the local government share and shall be distributed as provided in subsections (10) and (11).
(10) The calculations necessary to determine the local government share distributions shall be made by the state compliance agency based upon the net win per facility as provided by the Tribe. The local government share attributable to each casino shall be distributed as follows:
(a) Broward County shall receive 22.5 percent, the City of Coconut Creek shall receive 55 percent, the City of Coral Springs shall receive 12 percent, the City of Margate shall receive 8.5 percent, and the City of Parkland shall receive 2 percent of the local government share derived from the Seminole Indian Casino-Coconut Creek.
(b) Broward County shall receive 25 percent, the City of Hollywood shall receive 42.5 percent, the Town of Davie shall receive 22.5 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Indian Casino-Hollywood.
(c) Broward County shall receive 25 percent, the City of Hollywood shall receive 42.5 percent, the Town of Davie shall receive 22.5 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Hollywood.
(d) Collier County shall receive 75 percent and the Immokalee Fire Control District shall receive 25 percent of the local government share derived from the Seminole Indian Casino-Immokalee.
(e) Glades County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Brighton.

(f) Hendry County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Big Cypress.
(g) Hillsborough County shall receive 100 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Tampa.
(h) Broward County shall receive 25 percent, the City of Hollywood shall receive 35 percent, the Town of Davie shall receive 30 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the additional facilities authorized to be added to the Tribe's Hollywood Reservation under the gaming compact ratified, approved, and described in subsection (3).
(11) Upon receipt of the annual audited revenue figures from the Tribe and completion of the calculations as provided in subsection (10), the state compliance agency shall certify the results to the Chief Financial Officer and shall request the distributions to be paid from the General Revenue Fund within 30 days after authorization of nonoperating budget authority pursuant to s. 216.181(12).
(12) Any moneys remitted by the Tribe before the effective date of the compact shall be deposited into the General Revenue Fund and are released to the state without further obligation or encumbrance. The Legislature further finds that acceptance and appropriation of such funds does not legitimize, validate, or otherwise ratify any previously proposed compact or the operation of class III games by the Tribe for any period prior to the effective date of the compact.
(13)(a) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact described in paragraph (3)(a), if the compact described in paragraph (3)(b) is not effective:
1. Slot machines, as defined in s. 551.102(9).
2. Banking or banked card games, including baccarat, chemin de fer, and blackjack or 21 at the tribal facilities in Broward County, Collier County, and Hillsborough County.
3. Raffles and drawings.
(b) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact described in paragraph (3)(b), when such compact has been approved by the United States Secretary of the Interior, has not been invalidated by court action or change in federal law, and is effective:
1. Slot machines, as defined in s. 551.102(9).
2. Banking or banked card games, including baccarat, chemin de fer, and blackjack (21), and card games banked by the house, by a bank established by the house, or by a player.
3. Raffles and drawings.
4. Craps, including dice games such as sic-bo and any similar variations thereof.
5. Roulette, including big six and any similar variations thereof.
6. Fantasy sports contests. The acceptance of entry fees for fantasy sports contests conducted by the Tribe, including the receipt of entry fees paid by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Tribe where the servers or other devices used to conduct such contests on the Tribe's Indian lands are located. A person must be 21 years of age or older to pay an entry fee for fantasy sports contests.
7. Sports betting. Wagers on sports betting, including wagers made by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Tribe where the servers or other devices used to conduct such wagering activity on the Tribe's Indian lands are located. A person must be 21 years of age or older to wager on sports betting.

Games and gaming activities authorized under this subsection and conducted pursuant to a gaming compact ratified and approved under subsection (3) do not violate the laws of this state.
(14) Notwithstanding any other provision of state law, it is not a crime for a person to participate in the games specified in subsection (13) at a tribal facility operating under the compact entered into pursuant to this section.
History.—s. 1, ch. 2009-170; s. 1, ch. 2010-29; s. 12, ch. 2011-4; ss. 1, 2, ch. 2021-268; s. 10, ch. 2021-269.

285.712 TRIBAL-STATE GAMING COMPACTS

(1) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the state pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168 and 25 U.S.C. ss. 2701 et seq., for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within the state.
(2) Any tribal-state compact relating to gaming activities which is entered into by an Indian tribe in this state and the Governor pursuant to subsection (1) must be conditioned upon ratification by the Legislature.
(3) Following completion of negotiations and execution of a compact, the Governor shall submit a copy of the executed tribal-state compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed. To be effective, the compact must be ratified by both houses of the Legislature by a majority vote of the members present. The Governor shall file the executed compact with the Secretary of State pursuant to s. 15.01.
(4) Upon receipt of an act ratifying a tribal-state compact, the Secretary of State shall coordinate with the parties to the compact to formally submit a copy of the executed compact and the ratifying act to the United States Secretary of the Interior for his or her review and approval, in accordance with 25 U.S.C. s. 2710(d)(8).
History.—s. 3, ch. 2010-29; s. 3, ch. 2021-268.

CHAPTER 550
PARI-MUTUEL WAGERING

550.001 SHORT TITLE

This chapter may be cited as the "Florida Pari-mutuel Wagering Act." History.—s. 2, ch. 92-348.

550.002 DEFINITIONS

As used in this chapter, the term:

(1) "Breaks" means the portion of a pari-mutuel pool which is computed by rounding down to the nearest multiple of 10 cents and is not distributed to the contributors or withheld by the permitholder as takeout.

(2) "Breeders' and stallions' awards" means financial incentives paid to encourage the agricultural industry of breeding racehorses in this state.

(3) "Broadcast" means the broadcast, transmission, simulcast, or exhibition in any medium or manner by means that may include, but are not limited to, community antenna systems that receive and retransmit television or radio signals by wire, cable, or otherwise to television or radio sets, and cable origination networks or programmers that transmit programming to community antenna televisions or closed-circuit systems by wire, cable, satellite, or otherwise.

(4) "Commission" means the Florida Gaming Control Commission.

(5) "Contributor" means a person who contributes to a pari-mutuel pool by engaging in any pari-mutuel wager pursuant to this chapter.

(6) "Current meet" or "current race meet" means the conduct of racing or games pursuant to a current year's operating license issued by the commission.

(7) "Event" means a single contest, race, or game within a performance.

(8) "Exotic pools" means wagering pools, other than the traditional win, place, or show (1st, 2nd, or 3rd place) pools, into which a contributor can place a wager on more than one entry or on more than one race or game in the same bet and which includes, but is not limited to, daily doubles, perfectas, quinielas, quiniela daily doubles, exactas, trifectas, and Big Q pools.

(9) "Fronton" means a building or enclosure that contains a playing court with three walls designed and constructed for playing the sport of jai alai or pelota.

(10) "Full schedule of live racing or games" means, for a jai alai permitholder, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; for a permitholder who has a converted permit or filed an application on or before June 1, 1990, for a converted permit, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years; for a jai alai permitholder who does not operate slot machines in its pari-mutuel facility, who has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games conducted at its pari-mutuel facility has been less than $4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, the conduct of a combination of at least 40 live evening or matinee performances during the preceding year; for a jai alai permitholder who operates slot machines in its pari-mutuel facility, the conduct of a combination of at least 150 performances during the preceding year; for a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year; for a quarter horse permitholder at its facility unless an alternative schedule of at least 20 live regular wagering performances is agreed upon by the permitholder and either the Florida Quarter Horse Racing Association or the horsemen's association representing the majority of the quarter horse owners and trainers at the facility and filed with the commission along with its annual date application, in the 2010-2011 fiscal year, the conduct of at least 20 regular wagering performances, in the 2011-2012 and 2012-2013 fiscal years, the conduct of at least 30 live regular wagering performances, and for every fiscal year after the 2012-2013 fiscal year, the conduct of at least 40 live regular wagering performances; for a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility; and for a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year. For a permitholder which is restricted by statute to certain operating periods within the year when other members of its same class of permit are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games shall be adjusted pro rata in accordance with the relationship between its authorized operating period and the full calendar year and the resulting specified number of live performances shall constitute the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

(11) "Guest track" means a track or fronton receiving or accepting an intertrack wager.

(12) "Handle" means the aggregate contributions to pari-mutuel pools.

(13) "Harness racing" means a type of horseracing which is limited to standardbred horses using a pacing or trotting gait in which each horse pulls a two-wheeled cart called a sulky guided by a driver.

(14) "Horserace permitholder" means any thoroughbred entity permitted under the provisions of this chapter to conduct pari-mutuel wagering meets of thoroughbred racing; any harness entity permitted under this chapter to conduct pari-mutuel wagering meets of harness racing; or any quarter horse entity permitted under this chapter to conduct pari-mutuel wagering meets of quarter horse racing.

(15) "Host track" means a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager.

(16) "Intertrack wager" or "intertrack wagering" means a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.

(17) "Jai alai" or "pelota" means a ball game of Spanish origin played on a court with three walls.

(18) "Market area" means an area within 25 miles of a permitholder's track or fronton.

(19) "Meet" or "meeting" means the conduct of live racing or jai alai, or wagering on intertrack or simulcast events, for any stake, purse, prize, or premium.

(20) "Operating day" means a continuous period of 24 hours starting with the beginning of the first performance of a race or game, even though the operating day may start during one calendar day and extend past midnight except that no jai alai game may commence after 1:30 a.m.

(21) "Pari-mutuel" or "pari-mutuel wagering" means a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

(22) "Pari-mutuel facility" means the grounds or property of a cardroom, racetrack, fronton, or other facility used by a licensed permitholder.

(23) "Permitholder" or "permittee" means a holder of a permit to conduct pari-mutuel wagering in this state as authorized in this chapter.

(24) "Pari-mutuel wagering pool" means the total amount wagered on a race or game for a single possible result.

(25) "Performance" means a series of events, races, or games performed consecutively under a single admission charge.

(26) "Post time" means the time set for the arrival at the starting point of the horses in a race or the beginning of a game in jai alai.

(27) "Purse" means the cash portion of the prize for which a race or game is contested.

(28) "Quarter horse" means a breed of horse developed in the western United States which is capable of high speed for a short distance and used in quarter horse racing registered with the American Quarter Horse Association.

(29) "Regular wagering" means contributions to pari-mutuel pools involving wagering on a single entry in a single race, or a single jai alai player or team in a single game, such as the win pool, the place pool, or the show pool.
(30) "Same class of races, games, or permit" means, with respect to a jai alai permitholder, jai alai games or other jai alai permitholders; with respect to a greyhound permitholder, other greyhound permitholders conducting pari-mutuel wagering; with respect to a thoroughbred permitholder, thoroughbred races or other thoroughbred permitholders; with respect to a harness permitholder, harness races or other harness permitholders; with respect to a quarter horse permitholder, quarter horse races or other quarter horse permitholders.
(31) "Simulcasting" means broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.
(32) "Standardbred horse" means a pacing or trotting horse that is used in harness racing and that has been registered as a standardbred by the United States Trotting Association or by a foreign registry whose stud book is recognized by the United States Trotting Association.
(33) "Takeout" means the percentage of the pari-mutuel pools deducted by the permitholder prior to the distribution of the pool.
(34) "Thoroughbred" means a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.
(35) "Totalisator" means the computer system used to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.
(36) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls 5 percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.
(37) "Year," for purposes of determining a full schedule of live racing, means the state fiscal year.
(38) "Net pool pricing" means a method of calculating prices awarded to winning wagers relative to the contribution, net of takeouts, to a pool by each participating jurisdiction or, as applicable, site.
History.—s. 3, ch. 92-348; s. 206, ch. 94-218; s. 1, ch. 94-328; s. 1, ch. 95-390; s. 1, ch. 96-364; s. 21, ch. 2000-354; s. 1, ch. 2005-288; s. 4, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 1, ch. 2021-271; s. 6, ch. 2022-7.

550.0115 PERMITHOLDER OPERATING LICENSE

After a permit has been issued by the commission, and after the permit has been approved by election, the commission shall issue to the permitholder an annual operating license to conduct pari-mutuel wagering at the location specified in the permit pursuant to the provisions of this chapter.
History.—s. 4, ch. 92-348; s. 2, ch. 2021-271; s. 7, ch. 2022-7.

550.01215 LICENSE APPLICATION; PERIODS OF OPERATION; LICENSE FEES; BOND

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.
(a) Each application for an operating license also must include:
1. For each permitholder, whether the permitholder intends to accept wagers on intertrack or simulcast events.
2. For each permitholder that elects to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom.
3. For each thoroughbred racing permitholder that elects to receive or rebroadcast out-of-state races, the dates for all performances that the permitholder intends to conduct.
(b)1. A greyhound permitholder may not conduct live racing. A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. A thoroughbred permitholder must conduct live racing. A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(22); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.
2. A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The commission may deny, suspend, or revoke any permit or license under this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the commission may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.
(c) Permitholders may amend their applications through February 28.
(d) Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021.
(2) After the first license has been issued to a permitholder, all subsequent annual applications for a license shall be accompanied by proof, in such form as the commission may by rule require, that the permitholder continues to possess the qualifications prescribed by this chapter, and that the permit has not been disapproved at a later election.
(3) The commission shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The commission shall have the authority to approve minor changes in racing dates after a license has been issued. The commission may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder that is conducting live racing or games and that is located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the commission shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the commission shall take into consideration the impact of such changes on state revenues.

(4) In the event that a permitholder fails to operate all performances specified on its license at the date and time specified, the commission shall hold a hearing to determine whether to fine or suspend the permitholder's license, unless such failure was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.
(5) In the event that performances licensed to be operated by a permitholder are vacated, abandoned, or will not be used for any reason, any permitholder shall be entitled, pursuant to rules adopted by the commission, to apply to conduct performances on the dates for which the performances have been abandoned. The commission shall issue an amended license for all such replacement performances which have been requested in compliance with this chapter and commission rules.
History.—s. 5, ch. 92-348; s. 2, ch. 95-390; ss. 2, 16, ch. 96-364; s. 27, ch. 97-94; s. 1, ch. 98-190; s. 1, ch. 98-401; s. 73, ch. 2000-158; s. 4, ch. 2000-354; s. 5, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 3, ch. 2021-271; s. 8, ch. 2022-7.

550.0235 LIMITATION OF CIVIL LIABILITY

No permitholder licensed to conduct pari-mutuel wagering pursuant to the provisions of this chapter; no commissioner or employee of the commission; and no steward, judge, or other person appointed to act pursuant to this chapter shall be held liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee, steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section shall not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident; nor shall it limit any contractual liability.
History.—s. 8, ch. 92-348; s. 782, ch. 97-103; s. 4, ch. 2021-271; s. 9, ch. 2022-7.

550.0251 POWERS AND DUTIES OF THE FLORIDA GAMING CONTROL COMMISSION

The commission shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:
(1) The commission shall make an annual report to the Governor showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of the purposes of this chapter.
(2) The commission shall require an oath on application documents as required by rule, which oath must state that the information contained in the document is true and complete.
(3) The commission shall adopt reasonable rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all racetracks, race meets, and races held in this state. Such rules must be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the commission.
(4) The commission may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the commission under its seal and signed by the director.
(5) The commission may adopt rules establishing procedures for testing occupational licenseholders officiating at or participating in any race or game at any pari-mutuel facility under the jurisdiction of the commission for a controlled substance or alcohol and may prescribe procedural matters not in conflict with s. 120.80(19).
(6) In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the commission may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the commission. The commission may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The commission may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.
(7) The commission may oversee the making of, and distribution from, all pari-mutuel pools.
(8) The commission may collect taxes and require compliance with reporting requirements for financial information as authorized by this chapter. In addition, the commission may require permitholders conducting pari-mutuel operations within the state to remit taxes, including fees, by electronic funds transfer if the taxes and fees amounted to $50,000 or more in the prior reporting year.
(9) The commission may conduct investigations in enforcing this chapter, except that all information obtained pursuant to an investigation by the commission for an alleged violation of this chapter or rules of the commission is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution until an administrative complaint is issued or the investigation is closed or ceases to be active. This subsection does not prohibit the commission from providing such information to any law enforcement agency or to any other regulatory agency. For the purposes of this subsection, an investigation is considered to be active while it is being conducted with reasonable dispatch and with a reasonable, good faith belief that it could lead to an administrative, civil, or criminal action by the commission or another administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information, as defined in s. 119.011, and any other information that, if disclosed, would jeopardize the safety of an individual, all information, records, and transcriptions become public when the investigation is closed or ceases to be active.
(10) The commission may impose an administrative fine for a violation under this chapter of not more than $1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.
(11) The commission shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.
(12) The commission shall have full authority and power to make, adopt, amend, or repeal rules relating to cardroom operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state.
(13) The commission shall have the authority to suspend a permitholder's permit or license, if such permitholder is operating a cardroom facility and such permitholder's cardroom license has been suspended or revoked pursuant to s. 849.086.
History.—s. 7, ch. 92-348; s. 207, ch. 94-218; s. 1, ch. 95-204; s. 3, ch. 95-390; s. 21, ch. 96-364; s. 343, ch. 96-406; s. 248, ch. 96-410; s. 652, ch. 2003-261; s. 105, ch. 2005-2; s. 10, ch. 2022-7; s. 8, ch. 2022-179.

550.0351 CHARITY RACING DAYS

(1) The commission shall, upon the request of a permitholder, authorize each horseracing permitholder and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law.
(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the commission. Eligible charities include any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.
(3) The permitholder shall, within 120 days after the conclusion of its fiscal year, pay to the authorized charities the total of all profits derived from the operation of the charity day performances conducted. If charity days are operated on behalf of another permitholder pursuant to law, the permitholder entitled to distribute the proceeds shall distribute the proceeds to charity within 30 days after the actual receipt of the proceeds.
(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that racing performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the commission. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits.
(5) In determining profit, the permitholder may elect to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day were conducted as a regular or matinee performance.
(6)(a) The commission shall authorize one additional scholarship day for horseracing in addition to the regular racing days authorized by law and any additional days authorized by this section, to be conducted at all horse racetracks located in Hillsborough County. The permitholder shall conduct a full schedule of racing on the scholarship day.
(b) The funds derived from the operation of the additional scholarship day shall be allocated as provided in this section and paid to Pasco-Hernando Community College.
(c) When a charity or scholarship performance is conducted as a matinee performance, the commission may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.
(7) In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct two additional charity performances each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the "Retired Jai Alai Players Charity Day." The administration of this fund shall be determined by rule by the commission.
History.—s. 9, ch. 92-348; s. 3, ch. 96-364; s. 12, ch. 96-418; s. 24, ch. 2000-157; s. 22, ch. 2000-354; s. 21, ch. 2006-79; s. 5, ch. 2021-271; s. 11, ch. 2022-7.

550.0425 MINORS ATTENDANCE AT PARI-MUTUEL PERFORMANCES; RESTRICTIONS

(1) A minor, when accompanied by one or both parents or by her or his legal guardian, may attend pari-mutuel performances, under the conditions and at the times specified by each permitholder conducting the pari-mutuel performance.
(2) A person under the age of 18 may not place a wager at any pari-mutuel performance.
(3) Notwithstanding subsections (1) and (2), minors may be employed at a pari-mutuel facility except in positions directly involving wagering or alcoholic beverages or except as otherwise prohibited by law.
History.—s. 10, ch. 92-348; s. 783, ch. 97-103; s. 6, ch. 2021-271.

550.054 APPLICATION FOR PERMIT TO CONDUCT PARI-MUTUEL WAGERING

(1) Any person who possesses the qualifications prescribed in this chapter may apply to the commission for a permit to conduct pari-mutuel operations under this chapter. Applications for a pari-mutuel permit are exempt from the 90-day licensing requirement of s. 120.60. Within 120 days after receipt of a complete application, the commission shall grant or deny the permit. A completed application that is not acted upon within 120 days after receipt is deemed approved, and the commission shall grant the permit.
(2) Upon each application filed and approved, a permit shall be issued to the applicant setting forth the name of the permitholder, the location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement showing qualifications of the applicant to conduct pari-mutuel performances under this chapter; however, a permit is ineffectual to authorize any pari-mutuel performances until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. In addition, an application may not be considered, nor may a permit be issued by the commission or be voted upon in any county, to conduct horseraces, harness horse races, or pari-mutuel wagering at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility; this distance shall be measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.
(3) The commission shall require that each applicant submit an application setting forth:
(a) The full name of the applicant.
(b) If a corporation, the name of the state in which incorporated and the names and addresses of the officers, directors, and shareholders holding 5 percent or more equity or, if a business entity other than a corporation, the names and addresses of the principals, partners, or shareholders holding 5 percent or more equity.
(c) The names and addresses of the ultimate equitable owners for a corporation or other business entity, if different from those provided under paragraph (b), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States.
(d) The exact location where the applicant will conduct pari-mutuel performances.
(e) Whether the pari-mutuel facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, the names and addresses of the directors and stockholders thereof. However, this chapter does not prevent a person from applying to the commission for a permit to conduct pari-mutuel operations, regardless of whether the pari-mutuel facility has been constructed or not, and having an election held in any county at the same time that elections are held for the ratification of any permit in that county.
(f) A statement of the assets and liabilities of the applicant.
(g) The names and addresses of any mortgagee of any pari-mutuel facility and any financial agreement between the parties. The commission may require the names and addresses of the officers and directors of the mortgagee, and of those stockholders who hold more than 10 percent of the stock of the mortgagee.
(h) A business plan for the first year of operation.

(i) For each individual listed in the application as an owner, partner, officer, or director, a complete set of fingerprints that has been taken by an authorized law enforcement officer. These sets of fingerprints must be submitted to the Federal Bureau of Investigation for processing. Applicants who are foreign nationals shall submit such documents as necessary to allow the commission to conduct criminal history records checks in the applicant's home country. The applicant must pay the cost of processing. The commission may charge a $2 handling fee for each set of fingerprint records.
(j) The type of pari-mutuel activity to be conducted and the desired period of operation.
(k) Other information the commission requires.
(4) The commission shall require each applicant to deposit with the board of county commissioners of the county in which the election is to be held, a sufficient sum, in currency or by check certified by a bank licensed to do business in the state to pay the expenses of holding the election provided in s. 550.0651.
(5) Upon receiving an application and any amendments properly made thereto, the commission shall further investigate the matters contained in the application. If the applicant meets all requirements, conditions, and qualifications set forth in this chapter and the rules of the commission, the commission shall grant the permit.
(6) After initial approval of the permit and the source of financing, the terms and parties of any subsequent refinancing must be disclosed by the applicant or the permitholder to the commission.
(7) If the commission refuses to grant the permit, the money deposited with the board of county commissioners for holding the election must be refunded to the applicant. If the commission grants the permit applied for, the board of county commissioners shall order an election in the county to decide whether the permit will be approved, as provided in s. 550.0651.
(8)(a) The commission may charge the applicant for reasonable, anticipated costs incurred by the commission in determining the eligibility of any person or entity specified in s. 550.1815(1)(a) to hold any pari-mutuel permit, against such person or entity.
(b) The commission may, by rule, determine the manner of paying its anticipated costs associated with determination of eligibility and the procedure for filing applications for determination of eligibility.
(c) The commission shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.
(d) If unused funds remain at the conclusion of such investigation, they must be returned to the applicant within 60 days after the determination of eligibility has been made.
(e) If the actual costs of investigation exceed anticipated costs, the commission shall assess the applicant the amount necessary to recover all actual costs.
(9)(a) After a permit has been granted by the commission and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the commission shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.5251, the commission shall fix annually the time, place, and number of days during which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the commission requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter and that the permit has not been recalled at a later election held in the county.
(b) The commission may revoke or suspend any permit or license issued under this chapter upon the willful violation by the permitholder or licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a permit or license, the commission may impose a civil penalty against the permitholder or licensee for a violation of this chapter or any rule adopted by the commission. The penalty so imposed may not exceed $1,000 for each count or separate offense. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.
(c) The commission shall revoke the permit of any permitholder, other than a permitholder issued a permit pursuant to s. 550.3345, who did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. A permit revoked under this paragraph is void and may not be reissued.
(10) If a permitholder has failed to complete construction of at least 50 percent of the facilities necessary to conduct pari-mutuel operations within 12 months after approval by the voters of the permit, the commission shall revoke the permit upon adequate notice to the permitholder. However, the commission, upon good cause shown by the permitholder, may grant one extension of up to 12 months.
(11)(a) A permit granted under this chapter may not be transferred or assigned except upon written approval by the commission pursuant to s. 550.1815, except that the holder of any permit that has been converted to a jai alai permit may lease or build anywhere within the county in which its permit is located.
(b) If a permit to conduct pari-mutuel wagering is held by a corporation or business entity other than an individual, the transfer of 10 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission pursuant to s. 550.1815.
(12) Changes in ownership or interest of a pari-mutuel permit of 5 percent or more of the stock or other evidence of ownership or equity in the permitholder shall be approved by the commission prior to such change, unless the owner is an existing owner of that permit who was previously approved by the commission. Changes in ownership or interest of a pari-mutuel permit of less than 5 percent shall be reported to the commission within 20 days of the change. The commission may then conduct an investigation to ensure that the permit is properly updated to show the change in ownership or interest.
(13)(a) Notwithstanding any provisions of this chapter, no thoroughbred horse racing permit or license issued under this chapter shall be transferred, or reissued when such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a thoroughbred horse racetrack except upon proof in such form as the commission may prescribe that a referendum election has been held:
1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and that a majority of the electors voting on that question in such election voted in favor of the transfer of such license.
2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and in the county where the licensee is already licensed to conduct the race meeting and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.
(b) Each referendum held under the provisions of this subsection shall be held in accordance with the electoral procedures for ratification of permits, as provided in s. 550.0651. The expense of each such referendum shall be borne by the licensee requesting the transfer.
(14)(a) Any holder of a permit to conduct jai alai may apply to the commission to convert such permit to a permit to conduct greyhound racing in lieu of jai alai if:
1. Such permit is located in a county in which the commission has issued only two pari-mutuel permits pursuant to this section;
2. Such permit was not previously converted from any other class of permit; and
3. The holder of the permit has not conducted jai alai games during a period of 10 years immediately preceding his or her application for conversion under this subsection.

(b) The commission, upon application from the holder of a jai alai permit meeting all conditions of this section, shall convert the permit and shall issue to the permitholder a permit to conduct greyhound racing. A permitholder of a permit converted under this section shall be required to apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credit provided by this chapter. The holder of a permit converted pursuant to this subsection or any holder of a permit to conduct greyhound racing located in a county in which it is the only permit issued pursuant to this section who operates at a leased facility pursuant to s. 550.475 may move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary and such location is approved under the zoning regulations of the county or municipality in which the permit is located, and upon such relocation may use the permit for the conduct of pari-mutuel wagering and the operation of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall apply to any permit converted under this subsection and shall continue to apply to any permit which was previously included under and subject to such provisions before a conversion pursuant to this section occurred.

(15)(a) Notwithstanding any other provision of law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or who holds a permit issued pursuant to s. 550.3345;

(b) All permits issued under this chapter held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid issuance of the permits, if such permitholder held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or if such permitholder held a permit issued pursuant to s. 550.3345;

(c) Additional permits for the conduct of pari-mutuel wagering may not be approved or issued by the commission or former Division of Pari-mutuel Wagering after January 1, 2021; and

(d) A permit to conduct pari-mutuel wagering may not be converted to another class of permit.

History.—s. 11, ch. 92-348; s. 4, ch. 95-390; s. 27, ch. 97-98; s. 653, ch. 2003-261; s. 6, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 7, ch. 2021-271; s. 12, ch. 2022-7.

550.0555 GREYHOUND DOGRACING PERMITS; RELOCATION WITHIN A COUNTY; CONDITIONS

(1) It is the finding of the Legislature that pari-mutuel wagering on greyhound dogracing provides substantial revenues to the state. It is the further finding that, in some cases, this revenue-producing ability is hindered due to the lack of provisions allowing the relocation of existing dogracing operations. It is therefore declared that state revenues derived from greyhound dogracing will continue to be jeopardized if provisions allowing the relocation of such greyhound racing permits are not implemented. This enactment is made pursuant to, and for the purpose of, implementing such provisions.

(2) Any holder of a valid outstanding permit for greyhound dogracing in a county in which there is only one dogracing permit issued, as well as any holder of a valid outstanding permit for jai alai in a county where only one jai alai permit is issued, is authorized, without the necessity of an additional county referendum required under s. 550.0651, to move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary, that such relocation is approved under the zoning regulations of the county or municipality in which the permit is to be located as a planned development use, consistent with the comprehensive plan, and that such move is approved by the commission after it is determined at a proceeding pursuant to chapter 120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant or jai alai fronton to the nearest property line of the other.

History.—s. 12, ch. 92-348; s. 14, ch. 2000-354; s. 13, ch. 2022-7.

550.0651 ELECTIONS FOR RATIFICATION OF PERMITS; MUNICIPAL PROHIBITIONS

(1) The holder of any permit may have submitted to the electors of the county designated therein the question whether or not such permit will be ratified or rejected. Such questions shall be submitted to the electors for approval or rejection at a special election to be called for that purpose only. The board of county commissioners of the county designated, upon the presentation to such board at a regular or special meeting of a written application, accompanied by a certified copy of the permit granted by the commission, and asking for an election in the county in which the application was made, shall order a special election in the county for the particular purpose of deciding whether such permit shall be approved and license issued and race meetings permitted in such county by such permittee and shall cause the clerk of such board to give notice of the special election by publishing the same once each week for 2 consecutive weeks in one or more newspapers of general circulation in the county. Each permit covering each track must be voted upon separately and in separate elections, and an election may not be called more often than once every 2 years for the ratification of any permit covering the same track.

(2) All elections ordered under this chapter must be held within 90 days and not less than 21 days after the time of presenting such application to the board of county commissioners, and the inspectors of election shall be appointed and qualified as in cases of general elections, and they shall count the votes cast and make due returns of same to the board of county commissioners without delay. The board of county commissioners shall canvass the returns, declare the results, and cause the same to be recorded as provided in the general law concerning elections so far as applicable.

(3) When a permit has been granted by the commission and no application to the board of county commissioners has been made by the permittee within 6 months after the granting of the permit, the permit becomes void. The commission shall cancel the permit without notice to the permitholder, and the board of county commissioners holding the deposit for the election shall refund the deposit to the permitholder upon being notified by the commission that the permit has become void and has been canceled.

(4) All electors duly registered and qualified to vote at the last preceding general election held in such county are qualified electors for such election, and in addition thereto the registration books for such county shall be opened on the 10th day (if the 10th day is a Sunday or a holiday, then on the next day not a Sunday or holiday) after such election is ordered and called and must remain open for a period of 10 days for additional registrations of persons qualified for registration but not already registered. Electors for such special election have the same qualifications for and prerequisites to voting in elections as under the general election laws.

(5) If at any such special election the majority of the electors voting on the question of ratification or rejection of any permit vote against such ratification, such permit is void. If a majority of the electors voting on the question of ratification or rejection of any permit vote for such ratification, such permit becomes effectual and the holder thereof may conduct racing upon complying with the other provisions of this chapter. The board of county commissioners shall immediately certify the results of the election to the commission.

(6) Notwithstanding any other provision of law, a municipality may prohibit the establishment of a pari-mutuel facility on or after July 1, 2021, in its jurisdiction. This subsection does not apply to a permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 in the municipality's

jurisdiction or to a pari-mutuel facility that was previously approved by the municipality.
History.—s. 13, ch. 92-348; s. 8, ch. 2021-271; s. 14, ch. 2022-7.

550.0745 SUMMER JAI ALAI PERMIT PERIODS OF OPERATION

A permitholder issued a permit under former subsection (1) of this section, Florida Statutes 2020, for the operation of a jai alai fronton during the summer season may conduct pari-mutuel wagering throughout the year.
History.—s. 14, ch. 92-348; s. 9, ch. 2021-271.

550.0951 PAYMENT OF DAILY LICENSE FEE AND TAXES; PENALTIES

(1) DAILY LICENSE FEE.—
(a) Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the commission, for the use of the commission, a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace and $80 for each dograce and $40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each permitholder shall pay daily license fees not to exceed $500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.
(b) Each permitholder that cannot utilize the full amount of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) or the daily license fee credit provided in this section may, after notifying the commission in writing, elect once per state fiscal year on a form provided by the commission to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the commission, it shall not be rescinded. The commission shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the commission. Upon approval of the transfer by the commission, the transferred tax exemption or credit shall be effective for the first performance of the next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The commission shall ensure that all transfers of exemption or credit are made in accordance with this subsection and shall have the authority to adopt rules to ensure the implementation of this section.
(2) ADMISSION TAX.—
(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, dograce, or jai alai game. The permitholder shall be responsible for collecting the admission tax.
(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.
(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the commission a list of all persons to whom tax-free passes are issued under this paragraph.
(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.
(a) The tax on handle for quarter horse racing is 1.0 percent of the handle.
(b)1. The tax on handle for dogracing is 5.5 percent of the handle, except that for live charity performances held pursuant to s. 550.0351, and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle.
2. The tax on handle for jai alai is 7.1 percent of the handle.
(c)1. The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.
2. The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615(6) or (9), on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the commission by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the commission by the permitholder during the 1992-1993 state fiscal year.
(d) Notwithstanding any other provision of this chapter, in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.
(4) BREAKS TAX.—Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section shall be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the commission payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such payments shall be remitted by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the commission.

(6) PENALTIES.—

(a) The failure of any permitholder to make payments as prescribed in subsection (5) is a violation of this section, and the permitholder may be subjected by the commission to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the commission under this subsection, the commission may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the commission to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

History.—s. 15, ch. 92-348; s. 2, ch. 94-328; ss. 4, 26, ch. 96-364; s. 2, ch. 98-190; ss. 5, 6, ch. 98-217; s. 6, ch. 2000-354; s. 654, ch. 2003-261; s. 7, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 15, ch. 2022-7.

550.09511 JAI ALAI TAXES; ABANDONED INTEREST IN A PERMIT FOR NONPAYMENT OF TAXES

(1)(a) Pari-mutuel wagering at jai alai frontons in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operations of the state. Jai alai permitholders should pay their fair share of these taxes to the state. As further prescribed in paragraph (b), this business interest should not be taxed to such an extent as to cause any fronton which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the jai alai industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between jai alai permitholders based upon their ability to operate under such regulation and tax system.

(b) Under the taxation system set forth in this section, which is based upon revenues instead of profits, a jai alai permitholder should pay its fair share of taxes to the state, but it should not be subjected to taxes that might cause it to operate at a loss, impair its ability to service debt or to maintain its fixed assets, or otherwise jeopardize its existence and the jobs of its employees. Any jai alai permitholder that has incurred state taxes on handle and admissions in an amount that exceeds its operating earnings in a fiscal year that ends during or after the 1997-1998 state fiscal year is entitled to credit the excess amount of the taxes against state pari-mutuel taxes due and payable after June 30, 1998, during its next ensuing meets. As used in this paragraph, the term "operating earnings" means total revenues from pari-mutuel operations net of state taxes and fees less total expenses but excluding from expenses any deductions for interest, depreciation and amortization, payments to affiliated entities other than for reimbursement of expenses related to pari-mutuel operations, and any increase in an officer's or director's annual compensation above the amount paid during calendar year 1997.

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(a)1. The tax on handle per performance for live jai alai performances is 4.25 percent of handle per performance. However, when the live handle of a permitholder during the preceding state fiscal year was less than $15 million, the tax shall be paid on the handle in excess of $30,000 per performance per day.

2. The tax rate shall be applicable only until the requirements of paragraph (b) are met.

(b) At such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in fiscal year 1991-1992, the permitholder shall pay tax on handle for live jai alai performances at a rate of 2.55 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering in fiscal year 1991-1992 shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees.

(c) If no tax on handle for live jai alai performances were paid to the commission by a jai alai permitholder during the 1991-1992 state fiscal year, then at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in the last state fiscal year in which the permitholder conducted a full schedule of live games, the permitholder shall pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees. This paragraph shall take effect July 1, 1993.

(d) A permitholder who obtains a new permit issued by the commission subsequent to the 1991-1992 state fiscal year and a permitholder whose permit has been converted to a jai alai permit under the provisions of this chapter, shall, at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by the permitholder during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first 3 consecutive jai alai seasons paid to or due the commission by the permitholder and during which the permitholder conducted a full schedule of live games, pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year.

(e) The payment of taxes pursuant to paragraphs (b), (c), and (d) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(5) is submitted to the commission.

(f) A jai alai permitholder paying taxes under this section shall retain the breaks and pay an amount equal to the breaks as special prize awards which shall be in addition to the regular contracted prize money paid to jai alai players at the permitholder's facility. Payment of the special prize money shall be made during the permitholder's current meet.

(g) For purposes of this section, "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) Notwithstanding the provisions of subsection (2) and s. 550.0951(3)(c)1., any jai alai permitholder which is restricted under Florida law from operating live performances on a year-round basis is entitled to conduct wagering on live performances at a tax rate of 3.85 percent of live handle. Such permitholder is also entitled to conduct intertrack wagering as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on intertrack handle paid to the commission by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the former Division of Pari-mutuel Wagering by the permitholder during the 1992-1993 state fiscal year.
(b) The payment of taxes pursuant to paragraph (a) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this subsection.
(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all jai alai permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.
History.—s. 1, ch. 93-287; s. 3, ch. 94-328; ss. 5, 16, ch. 95-390; ss. 5, 26, ch. 96-364; s. 6, ch. 98-217; s. 2, ch. 98-401; s. 22, ch. 99-4; s. 2, ch. 2005-288; s. 8, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 10, ch. 2021-271; s. 16, ch. 2022-7.

550.09512 HARNESS HORSE TAXES; ABANDONED INTEREST IN A PERMIT FOR NONPAYMENT OF TAXES

(1) Pari-mutuel wagering at harness horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Harness horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the harness horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between harness horse permitholders based upon their ability to operate under such regulation and tax system.
(2)(a) The tax on handle for live harness horse performances is 0.5 percent of handle per performance.
(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.
(3)(a) The permit of a harness horse permitholder who is conducting live harness horse performances and who does not pay tax on handle for any such performances conducted during any 2 consecutive state fiscal years shall be void and may not be reissued unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.
(b) In order to maximize the tax revenues to the state, the commission shall reissue an escheated harness horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated harness horse permit. As specified in the application and upon approval by the commission of an application for the permit, the new permitholder shall be authorized to operate a harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.
(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all harness horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.
History.—s. 1, ch. 93-288; s. 2, ch. 98-217; s. 15, ch. 2000-354; s. 11, ch. 2021-271; s. 17, ch. 2022-7.

550.09514 GREYHOUND DOGRACING TAXES; PURSE REQUIREMENTS

(1) Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3). However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of $360,000. Thereafter, each permitholder shall pay the tax as specified in s. 550.0951(3) on all handle for the remainder of the permitholder's current race meet. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be $500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351.
(2)(a) The commission shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.
(b) Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses an annual amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments. The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The commission shall conduct audits necessary to ensure compliance with this section.
(c)1. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound races at a guest track which is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week.
2. Each host greyhound permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest

facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

(d) The commission shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those paid during the 1993-1994 state fiscal year. The commission shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c).

(e) In addition to the purse requirements of paragraphs (a)-(c), each greyhound permitholder shall pay as purses an amount equal to one-third of the amount of the tax reduction on live and simulcast handle applicable to such permitholder as a result of the reductions in tax rates provided by this act through the amendments to s. 550.0951(3). With respect to intertrack wagering when the host and guest tracks are greyhound permitholders not within the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduction in tax rate provided by this act through the amendment to s. 550.0951(3) shall be distributed to the guest track, one-third of which amount shall be paid as purses at the guest track. However, if the guest track is a greyhound permitholder within the market area of the host or if the guest track is not a greyhound permitholder, an amount equal to such tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which amount shall be paid as purses at the host track. These purse funds shall be disbursed in the week received if the permitholder conducts at least one live performance during that week. If the permitholder does not conduct at least one live performance during the week in which the purse funds are received, the purse funds shall be disbursed weekly during the permitholder's next race meet in an amount determined by dividing the purse amount by the number of performances approved for the permitholder pursuant to its annual license, and multiplying that amount by the number of performances conducted each week. The commission shall conduct audits necessary to ensure compliance with this paragraph.

(f) Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the commission with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(h) At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions may be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

(3) For the purpose of this section, the term "live handle" means the handle from wagers placed at the permitholder's establishment on the live greyhound races conducted at the permitholder's establishment.

History.—s. 6, ch. 96-364; s. 3, ch. 98-217; s. 60, ch. 99-5; s. 74, ch. 2000-158; s. 8, ch. 2000-354; s. 9, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 18, ch. 2022-7.

550.09515 THOROUGHBRED HORSE TAXES; ABANDONED INTEREST IN A PERMIT FOR NONPAYMENT OF TAXES

(1) Pari-mutuel wagering at thoroughbred horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Thoroughbred horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the thoroughbred horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between thoroughbred horse permitholders based upon their ability to operate under such regulation and tax system and at different periods during the year.

(2)(a) The tax on handle for live thoroughbred horserace performances shall be 0.5 percent.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) The permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the commission shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the commission of an application for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a thoroughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

(6) A credit equal to the amount of contributions made by a thoroughbred permitholder during the taxable year directly to the Jockeys' Guild or its health and welfare fund to be used to provide health and welfare benefits for active, disabled, and retired Florida jockeys and their dependents pursuant to reasonable rules of eligibility established by the Jockeys' Guild is allowed against taxes on live handle due for a taxable year under this section. A thoroughbred permitholder may not receive a credit greater than an amount equal to 1 percent of its paid taxes for the previous taxable year.
(7) If a thoroughbred permitholder fails to operate all performances on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances in the 2001-2002 fiscal year does not constitute failure to pay taxes on handle for a full schedule of live races in a fiscal year for the purposes of subsection (3). This subsection may not be construed as forgiving a thoroughbred permitholder from paying taxes on performances conducted at its facility pursuant to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license. This subsection expires July 1, 2003.
History.—s. 1, ch. 93-123; ss. 7, 26, ch. 96-364; ss. 3, 4, ch. 98-190; s. 75, ch. 2000-158; ss. 9, 10, ch. 2000-354; s. 12, ch. 2002-2; s. 38, ch. 2002-402; s. 19, ch. 2022-7.

550.105 OCCUPATIONAL LICENSES OF RACETRACK EMPLOYEES; FEES; DENIAL, SUSPENSION, AND REVOCATION OF LICENSE; PENALTIES AND FINES

(1) Each person connected with a racetrack or jai alai fronton, as specified in paragraph (2)(a), shall purchase from the commission an occupational license. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. Pursuant to the rules adopted by the commission, an occupational license may be valid for a period of up to 3 years for a fee that does not exceed the full occupational license fee for each of the years for which the license is purchased. The occupational license shall be valid during its specified term at any pari-mutuel facility.
(2)(a) The following licenses shall be issued to persons or entities with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room, or to persons who, by virtue of the position they hold, might be granted access to these areas or to any other person or entity in one of the following categories and with fees not to exceed the following amounts for any 12-month period:
1. Business licenses: any business such as a vendor, contractual concessionaire, business owning racing animals, trust or estate, totalisator company, stable name, or other fictitious name: $50.
2. Professional occupational licenses: professional persons with access to the backside of a racetrack or players' quarters in jai alai such as trainers, officials, veterinarians, doctors, nurses, EMT's, jockeys and apprentices, drivers, jai alai players, owners, trustees, or any management or officer or director or shareholder or any other professional-level person who might have access to the jockeys' room, the drivers' room, the backside, racing animals, or managers or supervisors requiring access to mutuels machines, the money room, or totalisator equipment: $40.
3. General occupational licenses: general employees with access to the jockeys' room, the drivers' room, racing animals, the backside of a racetrack or players' quarters in jai alai, such as grooms, leadouts, pelota makers, cesta makers, or ball boys, or a practitioner of any other occupation who would have access to the animals or the backside, or who would provide the security or maintenance of these areas, or mutuel employees, totalisator employees, money-room employees, or any employee with access to mutuels machines, the money room, or totalisator equipment or who would provide the security or maintenance of these areas: $10.
The individuals and entities that are licensed under this paragraph require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a Federal Bureau of Investigation criminal records check.

(b) The commission shall adopt rules pertaining to pari-mutuel occupational licenses, licensing periods, and renewal cycles.
(3) Certified public accountants and attorneys licensed to practice in this state shall not be required to hold an occupational license under this section while providing accounting or legal services to a permitholder if the certified public accountant's or attorney's primary place of employment is not on the permitholder premises.
(4) It is unlawful to take part in or officiate in any way at any pari-mutuel facility without first having secured a license and paid the occupational license fee.
(5)(a) The commission may:
1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority;
2. Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction;
if the state racing commission or racing authority of such other state or jurisdiction extends to the commission reciprocal courtesy to maintain the disciplinary control.
(b) The commission may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the commission governing the conduct of persons connected with racetracks and frontons. In addition, the commission may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for such license has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; or a crime involving a lack of good moral character, or has had a pari-mutuel license revoked by this state or any other jurisdiction for an offense related to pari-mutuel wagering.
(c) The commission may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the commission.
(d) For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere. However, the term "conviction" shall not be applied to a crime committed prior to the effective date of this subsection in a manner that would invalidate any occupational license issued prior to the effective date of this subsection or subsequent renewal for any person holding such a license.
(e) If an occupational license will expire by commission rule during the period of a suspension the commission intends to impose, or if a license would have expired but for pending administrative charges and the occupational licensee is found to be in violation of any of the charges, the license may be revoked and a time period of license ineligibility may be declared. The commission may bring administrative charges against any person not holding a current license for violations of statutes or rules which occurred while such person held an occupational license, and the commission may declare such person ineligible to hold a license for a period of time. The commission may impose a civil fine of up to $1,000 for each violation of the rules of the commission in addition to or in lieu of any other penalty

provided for in this section. In addition to any other penalty provided by law, the commission may exclude from all pari-mutuel facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been denied by the commission, who has been declared ineligible to hold an occupational license, or whose occupational license has been suspended or revoked by the commission.

(f) The commission may cancel any occupational license that has been voluntarily relinquished by the licensee.

(6) In order to promote the orderly presentation of pari-mutuel meets authorized in this chapter, the commission may issue a temporary occupational license. The commission shall adopt rules to implement this subsection. However, no temporary occupational license shall be valid for more than 90 days, and no more than one temporary license may be issued for any person in any year.

(7) The commission may deny, revoke, or suspend any occupational license if the applicant therefor or holder thereof accumulates unpaid obligations or defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause, if such unpaid obligations, defaults, or dishonored or refused drafts or checks directly relate to the sport of jai alai or racing being conducted at a pari-mutuel facility within this state.

(8) The commission may fine, or suspend or revoke, or place conditions upon, the license of any licensee who under oath knowingly provides false information regarding an investigation by the commission.

(9) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that, if a race meeting or game is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits, which tax may not exceed $150 per day for horseracing or $50 per day for jai alai. Except as provided in this chapter, a municipality may not assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

(10)(a) Upon application for an occupational license, the commission may require the applicant's full legal name; any nickname, alias, or maiden name for the applicant; name of the applicant's spouse; the applicant's date of birth, residence address, mailing address, residence address and business phone number, and social security number; disclosure of any felony or any conviction involving bookmaking, illegal gambling, or cruelty to animals; disclosure of any past or present enforcement or actions by any racing or gaming agency against the applicant; and any information the commission determines is necessary to establish the identity of the applicant or to establish that the applicant is of good moral character. Fingerprints shall be taken in a manner approved by the commission and then shall be submitted to the Federal Bureau of Investigation, or to the association of state officials regulating pari-mutuel wagering pursuant to the Federal Pari-mutuel Licensing Simplification Act of 1988. The cost of processing fingerprints shall be borne by the applicant and paid to the association of state officials regulating pari-mutuel wagering from the trust fund to which the processing fees are deposited. The commission, by rule, may require additional information from licensees which is reasonably necessary to regulate the industry. The commission may, by rule, exempt certain occupations or groups of persons from the fingerprinting requirements.

(b) All fingerprints required by this section that are submitted to the Department of Law Enforcement shall be retained by the Department of Law Enforcement and entered into the statewide automated biometric identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprints entered into the statewide automated biometric identification system pursuant to s. 943.051.

(c) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (b). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the commission. Each licensee shall pay a fee to the commission for the cost of retention of the fingerprints and the ongoing searches under this paragraph. The commission shall forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The commission shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (b).

(d) The commission shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check at least once every 5 years following issuance of a license. If the fingerprints of a person who is licensed have not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided in paragraph (a). The commission shall collect the fees for the cost of the national criminal history records check under this paragraph and forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a general occupational license shall be borne by the applicant. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the commission for the fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the commission within 48 hours if he or she is convicted of or has entered a plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

History.—s. 16, ch. 92-348; s. 6, ch. 95-390; s. 28, ch. 97-98; s. 784, ch. 97-103; s. 23, ch. 2000-354; s. 10, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 52, ch. 2013-116; s. 12, ch. 2021-271; s. 20, ch. 2022-7.

550.1155 AUTHORITY OF STEWARDS, JUDGES, PANEL OF JUDGES, OR PLAYER'S MANAGER TO IMPOSE PENALTIES AGAINST OCCUPATIONAL LICENSEES; DISPOSITION OF FUNDS COLLECTED

(1) The stewards at a horse racetrack or the judges, a panel of judges, or a player's manager at a jai alai fronton may impose a civil penalty against any occupational licensee for violation of the pari-mutuel laws or any rule adopted by the commission. The penalty may not exceed $1,000 for each count or separate offense or exceed 60 days of suspension for each count or separate offense.

(2) All penalties imposed and collected pursuant to this section at each horse racetrack or jai alai fronton shall be deposited into a board of relief fund established by the pari-mutuel permitholder. Each association shall name a board of relief composed of three of its officers, with the general manager of the permitholder being the ex officio treasurer of such board. Moneys deposited into the board of relief fund shall be disbursed by the board for the specific purpose of aiding occupational licenseholders and their immediate family members at each pari-mutuel facility.

History.—s. 17, ch. 92-348; s. 7, ch. 95-390; s. 13, ch. 2021-271; s. 21, ch. 2022-7.

550.125 UNIFORM REPORTING SYSTEM; BOND REQUIREMENT

(1) The Legislature finds that a uniform reporting system should be developed to provide acceptable uniform financial data and statistics.

(2)(a) Each permitholder that conducts race meetings or jai alai exhibitions under this chapter shall keep records that clearly show the total number of admissions and the total amount of money contributed to each pari-mutuel pool on each race or exhibition separately and the amount of money received daily from admission fees and, within 120 days after the end of its fiscal year, shall submit to the commission a complete annual report of its accounts, audited by a certified public accountant licensed to practice in the state.
(b) The commission shall adopt rules specifying the form and content of such reports, including, but not limited to, requirements for a statement of assets and liabilities, operating revenues and expenses, and net worth, which statement must be audited by a certified public accountant licensed to practice in this state, and any supporting informational schedule found necessary by the commission to verify the foregoing financial statement, which informational schedule must be attested to under oath by the permitholder or an officer of record, to permit the commission to:
1. Assess the profitability and financial soundness of permitholders, both individually and as an industry;
2. Plan and recommend measures necessary to preserve and protect the pari-mutuel revenues of the state; and
3. Completely identify the holdings, transactions, and investments of permitholders with other business entities.
(c) The Auditor General and the Office of Program Policy Analysis and Government Accountability may, pursuant to their own authority or at the direction of the Legislative Auditing Committee, audit, examine, and check the books and records of any permitholder. These audit reports shall become part of, and be maintained in, the commission files.
(d) The commission shall annually review the books and records of each permitholder and verify that the breaks and unclaimed ticket payments made by each permitholder are true and correct.
(3)(a) Each permitholder to which a license is granted under this chapter, at its own cost and expense, must, before the license is delivered, give a bond in the penal sum of $50,000 payable to the Governor of the state and her or his successors in office, with a surety or sureties to be approved by the commission and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in her or his capacity as treasurer of the commission; to keep its books and records and make reports as provided; and to conduct its racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than $50,000, the commission may assess a bond in a sum less than $50,000. The commission may review the bond for adequacy and require adjustments each fiscal year. The commission has the authority to adopt rules to implement this paragraph and establish guidelines for such bonds.
(b) The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.505.
History.—s. 18, ch. 92-348; s. 785, ch. 97-103; s. 122, ch. 2001-266; s. 655, ch. 2003-261; s. 22, ch. 2022-7.

550.135 DIVISION OF MONEYS DERIVED UNDER THIS LAW

All moneys that are deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed as follows:
(1) The daily license fee revenues collected pursuant to s. 550.0951(1) shall be used to fund the operating cost of the commission; however, other collections in the Pari-mutuel Wagering Trust Fund may also be used to fund the operation of the commission in accordance with authorized appropriations.
(2) The slot machine license fee, the slot machine occupational license fee, and the compulsive or addictive gambling prevention program fee collected pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be used to fund the direct and indirect operating expenses of the commission's operations and to provide funding for relevant enforcement activities in accordance with authorized appropriations.
History.—s. 19, ch. 92-348; s. 208, ch. 94-218; s. 8, ch. 96-364; s. 5, ch. 2000-354; s. 656, ch. 2003-261; s. 1, ch. 2004-281; s. 1, ch. 2007-83; ss. 48, 49, 99, ch. 2022-157; s. 5, ch. 2022-179.
1Note.—
A. Section 48, ch. 2022-157, amended s. 550.135 "[i]n order to implement Specific Appropriations 1353 through 1391 of the 2022-2023 General Appropriations Act."
B. Section 49, ch. 2022-157, provides that "[t]he amendments to s. 550.135, Florida Statutes, made by this act expire July 1, 2023, and the text of that section shall revert to that in existence on June 30, 2022, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section."
C. Section 99, ch. 2022-157, provides that "[i]f any other act passed during the 2022 Regular Session of the Legislature contains a provision that is substantively the same as a provision in this act, but that removes or is otherwise not subject to the future repeal applied to such provision by this act, the Legislature intends that the provision in the other act takes precedence and continues to operate, notwithstanding the future repeal provided by this act." Section 5, ch. 2022-179, amended s. 550.135 using language substantively the same as the amendment by s. 48, ch. 2022-157, and did not include a repeal provision.

550.155 PARI-MUTUEL POOL WITHIN TRACK ENCLOSURE; TAKEOUTS; BREAKS; PENALTY FOR PURCHASING PART OF A PARI-MUTUEL POOL FOR OR THROUGH ANOTHER IN SPECIFIED CIRCUMSTANCES

(1) Wagering on the results of a horserace, dograce, or on the scores or points of a jai alai game and the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool are allowed within the enclosure of any pari-mutuel facility licensed and conducted under this chapter but are not allowed elsewhere in this state, must be supervised by the commission, and are subject to such reasonable rules that the commission prescribes.
(2) The permitholder's share of the takeout is that portion of the takeout that remains after the pari-mutuel tax imposed upon the contributions to the pari-mutuel pool is deducted from the takeout and paid by the permitholder. The takeout is deducted from all pari-mutuel pools but may be different depending on the type of pari-mutuel pool. The permitholder shall inform the patrons, either through the official program or via the posting of signs at conspicuous locations, as to the takeout currently being applied to handle at the facility. A capital improvement proposed by a permitholder licensed under this chapter to a pari-mutuel facility existing on June 23, 1981, which capital improvement requires, pursuant to any municipal or county ordinance, resolution, or regulation, the qualification or approval of the municipality or county wherein the permitholder conducts its business operations, shall receive approval unless the municipality or county is able to show that the proposed improvement presents a justifiable and immediate hazard to the health and safety of municipal or county residents, provided the permitholder pays to the municipality or county the cost of a building permit and provided the capital improvement meets the following criteria:
(a) The improvement does not qualify as a development of regional impact as defined in s. 380.06; and
(b) The improvement is contiguous to or within the existing pari-mutuel facility site. To be contiguous, the site of the improvement must share a sufficient common boundary with the present pari-mutuel facility to allow full and free access without crossing a public roadway, public waterway, or similar barrier.

(3) After deducting the takeout and the "breaks," a pari-mutuel pool must be redistributed to the contributors.
(4) Redistribution of funds otherwise distributable to the contributors of a pari-mutuel pool must be a sum equal to the next lowest multiple of 10 on all races and games.
(5) A distribution of a pari-mutuel pool may not be made of the odd cents of any sum otherwise distributable, which odd cents constitute the "breaks."
(6) A person or corporation may not directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity. A person may not purchase any part of a pari-mutuel pool through another wherein she or he gives or pays directly or indirectly such other person anything of value. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 20, ch. 92-348; s. 8, ch. 95-390; s. 786, ch. 97-103; s. 18, ch. 2000-354; s. 23, ch. 2022-7.

550.1625 DOGRACING; TAXES

(1) The operation of a dog track and legalized pari-mutuel betting at dog tracks in this state is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at dog tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of dog tracks should pay their fair share of taxes to the state; at the same time, this substantial business interest should not be taxed to such an extent as to cause a track that is operated under sound business principles to be forced out of business.
(2) A permitholder that conducts a dograce meet under this chapter must pay the daily license fee, the admission tax, the breaks tax, and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).
History.—s. 21, ch. 92-348; s. 54, ch. 2000-154.

550.1645 ESCHEAT TO STATE OF ABANDONED INTEREST IN OR CONTRIBUTION TO PARI-MUTUEL POOLS

(1) It is the public policy of the state, while protecting the interest of the owners, to possess all unclaimed and abandoned interest in or contribution to certain pari-mutuel pools conducted in this state under this chapter, for the benefit of all the people of the state; and this law shall be liberally construed to accomplish such purpose.
(2) Except as otherwise provided in this chapter, all money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any licensee authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within the aforesaid period of time, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.
(3) All money or other property that has escheated to and become the property of the state as provided herein, and which is held by such licensee authorized to conduct pari-mutuel pools in this state, shall be paid by such licensee to the Chief Financial Officer annually within 60 days after the close of the race meeting of the licensee. Such moneys so paid by the licensee to the Chief Financial Officer shall be deposited in the State School Fund to be used for the support and maintenance of public free schools as required by s. 6, Art. IX of the State Constitution.
History.—s. 22, ch. 92-348; s. 11, ch. 2000-354; s. 657, ch. 2003-261.

550.1646 CREDIT FOR UNCLAIMED PROPERTY REMITTED TO STATE

All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket that has remained in the custody of or under the control of any permitholder authorized to conduct jai alai pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owners thereof have made no claim or demand for such money or other property within that period of time, shall, with respect to live games conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to 25 percent of the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed under this chapter. Funds equal to such credit from any live jai alai games shall be paid by the permitholder to the National Association of Jai Alai Frontons, to be used for the general promotion of the sport of jai alai in the state, including professional tournaments and amateur jai alai youth programs. These youth programs shall focus on benefiting children in after-school and anti-drug programs with special attention to inner-city areas.
History.—s. 45, ch. 2000-354.

550.1647 GREYHOUND PERMITHOLDERS; UNCLAIMED TICKETS; BREAKS

All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any greyhound permitholder authorized to conduct pari-mutuel wagering in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within that period of time, shall be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed pursuant to this chapter. In addition, each permitholder shall pay, from any source, an amount not less than 10 percent of the amount of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. As used in this chapter, the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with chapter 496 and possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption.
History.—s. 12, ch. 2000-354; s. 2, ch. 2004-23; s. 14, ch. 2021-271.

550.175 PETITION FOR ELECTION TO REVOKE PERMIT

Upon petition of 20 percent of the qualified electors of any county wherein any pari-mutuel wagering has been licensed and conducted under this chapter, the county commissioners of such county shall provide for the submission to the electors of such county at the then next succeeding general election the question of whether any permit or permits theretofore granted shall be continued or revoked, and if a majority of the electors voting on such question in such election vote to cancel or recall the permit theretofore given, the commission may not thereafter grant any license on the permit so recalled. Every signature upon every recall petition must be signed in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county, and the petitioner must present at the time of such signing her or his registration receipt showing the petitioner's qualification as an elector of the county at the time of the signing of the petition. Not more than one permit may be included in

any one petition; and, in all elections in which the recall of more than one permit is voted on, the voters shall be given an opportunity to vote for or against the recall of each permit separately. Nothing in this chapter shall be construed to prevent the holding of later referendum or recall elections.
History.—s. 23, ch. 92-348; s. 787, ch. 97-103; s. 16, ch. 2021-271; s. 24, ch. 2022-7.

550.1815 CERTAIN PERSONS PROHIBITED FROM HOLDING RACING OR JAI ALAI PERMITS; SUSPENSION AND REVOCATION

(1) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not hold any horseracing or greyhound permit or jai alai fronton permit in this state if any one of the persons or entities specified in paragraph (a) has been determined by the commission not to be of good moral character or has been convicted of any offense specified in paragraph (b).
(a)1. The permitholder;
2. An employee of the permitholder;
3. The sole proprietor of the permitholder;
4. A corporate officer or director of the permitholder;
5. A general partner of the permitholder;
6. A trustee of the permitholder;
7. A member of an unincorporated association permitholder;
8. A joint venturer of the permitholder;
9. The owner of more than 5 percent of any equity interest in the permitholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or
10. An owner of any interest in the permit or permitholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the permitholder, who by virtue thereof is able to control the business of the permitholder.
(b)1. A felony in this state;
2. Any felony in any other state which would be a felony if committed in this state under the laws of this state;
3. Any felony under the laws of the United States;
4. A felony under the laws of another state if related to gambling which would be a felony under the laws of this state if committed in this state; or
5. Bookmaking as defined in s. 849.25.
(2)(a) If the applicant for permit as specified under subsection (1) or a permitholder as specified in paragraph (1)(a) has received a full pardon or a restoration of civil rights with respect to the conviction specified in paragraph (1)(b), the conviction does not constitute an absolute bar to the issuance or renewal of a permit or a ground for the revocation or suspension of a permit.
(b) A corporation that has been convicted of a felony is entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.
(3) After notice and hearing, the commission shall refuse to issue or renew or shall suspend, as appropriate, any permit found in violation of subsection (1). The order shall become effective 120 days after service of the order upon the permitholder and shall be amended to constitute a final order of revocation unless the permitholder has, within that period of time, either caused the divestiture, or agreed with the convicted person upon a complete immediate divestiture, of her or his holding, or has petitioned the circuit court as provided in subsection (4) or, in the case of corporate officers or directors of the holder or employees of the holder, has terminated the relationship between the permitholder and those persons mentioned. The commission may, by order, extend the 120-day period for divestiture, upon good cause shown, to avoid interruption of any jai alai or race meeting or to otherwise effectuate this section. If no action has been taken by the permitholder within the 120-day period following the issuance of the order of suspension, the commission shall, without further notice or hearing, enter a final order of revocation of the permit. When any permitholder or sole proprietor of a permitholder is convicted of an offense specified in paragraph (1)(b), the commission may approve a transfer of the permit to a qualified applicant, upon a finding that revocation of the permit would impair the state's revenue from the operation of the permit or otherwise be detrimental to the interests of the state in the regulation of the industry of pari-mutuel wagering. In such approval, no public referendum is required, notwithstanding any other provision of law. A petition for transfer after conviction must be filed with the commission within 30 days after service upon the permitholder of the final order of revocation. The timely filing of such a petition automatically stays any revocation order until further order of the commission.
(4) The circuit courts have jurisdiction to decide a petition brought by a holder of a pari-mutuel permit that shows that its permit is in jeopardy of suspension or revocation under subsection (3) and that it is unable to agree upon the terms of divestiture of interest with the person specified in subparagraphs (1)(a)3.-9. who has been convicted of an offense specified in paragraph (1)(b). The court shall determine the reasonable value of the interest of the convicted person and order a divestiture upon such terms and conditions as it finds just. In determining the value of the interest of the convicted person, the court may consider, among other matters, the value of the assets of the permitholder, its good will and value as a going concern, recent and expected future earnings, and other criteria usual and customary in the sale of like enterprises.
(5) The commission shall make such rules for the photographing, fingerprinting, and obtaining of personal data of individuals described in paragraph (1)(a) and the obtaining of such data regarding the business entities described in paragraph (1)(a) as is necessary to effectuate the provisions of this section.
History.—s. 24, ch. 92-348; s. 29, ch. 97-98; s. 788, ch. 97-103; s. 17, ch. 2021-271; s. 25, ch. 2022-7.

550.235 CONNIVING TO PREARRANGE RESULT OF RACE OR JAI ALAI GAME; USING MEDICATION OR DRUGS ON HORSE OR DOG; PENALTY

(1) Any person who influences, or has any understanding or connivance with, any owner, jockey, groom, or other person associated with or interested in any stable, kennel, horserace, dograce, or jai alai game, in which any horse, dog, or jai alai player participates, to prearrange or predetermine the results of any such race or game, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any person who attempts to affect the outcome of a horserace or dograce through administration of medication or drugs to a race animal as prohibited by law; who administers any medication or drugs prohibited by law to a race animal for the purpose of affecting the outcome of a horserace or dograce; or who conspires to administer or to attempt to administer such medication or drugs is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
History.—s. 25, ch. 92-348; s. 30, ch. 97-98.

550.24055 USE OF CONTROLLED SUBSTANCES OR ALCOHOL PROHIBITED; TESTING OF CERTAIN OCCUPATIONAL LICENSEES; PENALTY; EVIDENCE OF TEST OR ACTION TAKEN AND ADMISSIBILITY FOR CRIMINAL PROSECUTION LIMITED

(1) The use of a controlled substance as defined in chapter 893 or of alcohol by any occupational licensees officiating at or participating in a race or jai alai game is prohibited.
(2) The occupational licensees, by applying for and holding such licenses, are deemed to have given their consents to submit to an approved chemical test of their breath for the purpose of determining the alcoholic content of their blood and to a urine or blood test for the

purpose of detecting the presence of controlled substances. Such tests shall only be conducted upon reasonable cause that a violation has occurred as shall be determined solely by the stewards at a horseracing meeting or the judges or board of judges at a jai alai meet. The failure to submit to such test may result in a suspension of the person's occupational license for a period of 10 days or until this section has been complied with, whichever is longer.

(a) If there was at the time of the test 0.05 percent or less by weight of alcohol in the person's blood, the person is presumed not to have been under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and no action of any sort may be taken by the stewards, judges, or board of judges or the commission.

(b) If there was at the time of the test an excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the person's blood, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that the person's faculties were impaired, but the stewards, judges, or board of judges may consider that fact in determining whether or not the person will be allowed to officiate or participate in any given race or jai alai game.

(c) If there was at the time of the test 0.08 percent or more by weight of alcohol in the person's blood, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and the stewards or judges may take action as set forth in this section, but the person may not officiate at or participate in any race or jai alai game on the day of such test.

All tests relating to alcohol must be performed in a manner substantially similar, or identical, to the provisions of s. 316.1934 and rules adopted pursuant to that section. Following a test of the urine or blood to determine the presence of a controlled substance as defined in chapter 893, if a controlled substance is found to exist, the stewards, judges, or board of judges may take such action as is permitted in this section.

(3) A violation of subsection (2) is subject to the following penalties:

(a) For the first violation, the stewards, judges, or board of judges may suspend a licensee for up to 10 days or in the alternative may impose a civil fine of up to $500 in lieu of a suspension.

(b) For a second violation within 1 year after the first violation the stewards, judges, or board of judges may suspend a licensee for up to 30 days and in addition to or in lieu of suspension may impose a civil fine of up to $2,000.

In lieu of or in addition to the foregoing penalties, the stewards, judges, or board of judges may require the licensee to participate in a drug or alcohol rehabilitation program and to be retested.

(c) If the second violation occurred within 1 year after the first violation, then upon the finding of a third violation of this section within 1 year after the second violation, the stewards, judges, or board of judges may suspend the licensee for up to 120 days; and the stewards, judges, or board of judges shall forward the results of the tests under paragraphs (a) and (b) and this violation to the commission. In addition to the action taken by the stewards, judges, or board of judges, the commission, after a hearing, may deny, suspend, or revoke the occupational license of the licensee and may impose a civil penalty of up to $5,000 in addition to, or in lieu of, a suspension or revocation, it being the intent of the Legislature that the commission shall have no authority over the enforcement of this section until a licensee has committed the third violation within 2 years after the first violation.

(4) The provisions of s. 120.80(19) apply to all actions taken by the stewards, judges, or board of judges pursuant to this section without regard to the limitation contained therein.

(5) This section does not apply to the possession and use of controlled or chemical substances that are prescribed as part of the care and treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, part I of chapter 464, or chapter 466.

(6) Evidence of any test or actions taken by the stewards, judges, or board of judges or the commission under this section is inadmissible for any purpose in any court for criminal prosecution, it being the intent of the Legislature to provide a method and means by which the health, safety, and welfare of those officiating at or participating in a race meet or a jai alai game are sufficiently protected. However, this subsection does not prohibit any person so authorized from pursuing an independent investigation as a result of a ruling made by the stewards, judges, or board of judges, or the commission.

History.—s. 26, ch. 92-348; s. 26, ch. 96-330; s. 249, ch. 96-410; s. 138, ch. 2000-318; s. 24, ch. 2000-354; s. 18, ch. 2021-271; s. 26, ch. 2022-7; s. 9, ch. 2022-179.

550.2415 RACING OF ANIMALS UNDER CERTAIN CONDITIONS PROHIBITED; PENALTIES; EXCEPTIONS

(1)(a) The racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present is prohibited. It is a violation of this section for a person to impermissibly medicate an animal or for an animal to have a prohibited substance present resulting in a positive test for such medications or substances based on samples taken from the animal before or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the commission or administrative action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The commission may solicit input from the Department of Agriculture and Consumer Services and adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

(2) Administrative action may be taken by the commission against an occupational licensee responsible pursuant to rule of the commission for the condition of an animal that has been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the commission may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding the purse or sweepstakes earned by the animal in the race at issue or $10,000, whichever is greater; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section does not prohibit a prosecution for criminal acts committed.

(b) The commission, notwithstanding chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or commission rule for the condition of a race animal if the commission laboratory reports the presence of a prohibited substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the commission shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the commission shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.
(4) A prosecution pursuant to this section for a violation of this section must begin within 90 days after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.
(5) The commission shall implement a split-sample procedure for testing animals under this section.
(a) The commission shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test results. If a drug test result is positive, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the commission shall send the split sample to an approved independent laboratory for analysis. The commission shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is positive.
(b) If the commission laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued.
(c) If the independent laboratory confirms the commission laboratory's positive result, the commission may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the commission shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.
(d) For the testing of a racehorse, if there is an insufficient quantity of the secondary (split) sample for confirmation of the commission laboratory's positive result, the commission may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.
(e) The commission shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racing animals. The administrator of the quality assurance program shall report its results and findings to the commission and the Department of Agriculture and Consumer Services.
(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.
(b) Any act committed by any licensee that would constitute cruelty to animals as defined in s. 828.02 involving any animal constitutes a violation of this chapter. Imposition of any penalty by the commission for violation of this chapter or any rule adopted by the commission pursuant to this chapter shall not prohibit a criminal prosecution for cruelty to animals.
(c) The commission may inspect any area at a pari-mutuel facility where racing animals are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racing animals and compliance with this chapter and the rules of the commission.
(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the commission shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule, Version 2.1, revised April 17, 2014, adopted by the Association of Racing Commissioners International, Inc. Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by the Association of Racing Commissioners International, Inc., as controlled therapeutic medications.
(b) The commission rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.
(c) The commission rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by the Association of Racing Commissioners International, Inc. The commission shall adopt laboratory screening limits approved by the Association of Racing Commissioners International, Inc., for drugs and medications that are not included as controlled therapeutic medications, the presence of which in a sample may result in a violation of this section.
(d) The commission rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.
(e) The commission may solicit input from the Department of Agriculture and Consumer Services in adopting the rules required under this subsection.
(f) This section does not prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race-day specimen.
(8) Furosemide is the only medication that may be administered within 24 hours before the officially scheduled post time of a race, but it may not be administered within 4 hours before the officially scheduled post time of a race.
(9)(a) The commission may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The commission may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.
(b) The commission may take possession of the animal upon death for postmortem examination. The commission may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the commission laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.
(10) The presence of a prohibited substance in an animal, found by the commission laboratory in a bodily fluid specimen collected after the race or during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.
(11) The cost of postmortem examinations, testing, and disposal must be borne by the commission.
(12) The commission shall adopt rules to implement this section.
History.—s. 27, ch. 92-348; s. 28, ch. 93-120; s. 5, ch. 93-123; s. 1, ch. 95-205; s. 9, ch. 96-364; s. 344, ch. 96-406; s. 1174, ch. 97-103; s. 2, ch. 2002-51; s. 5, ch. 2009-69; s. 11, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 1, ch. 2015-88; s. 19, ch. 2021-271; s. 27, ch. 2022-7.

550.255 PENALTY FOR CONDUCTING UNAUTHORIZED RACE MEETING

Every race meeting at which racing is conducted for any stake, purse, prize, or premium, except as allowed by this chapter, is prohibited and declared to be a public nuisance, and every person acting or aiding therein or conducting, or attempting to conduct, racing in this state not in conformity with this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 29, ch. 92-348.

550.2614 DISTRIBUTION OF CERTAIN FUNDS TO A HORSEMEN'S ASSOCIATION

(1) Each licensee that holds a permit for thoroughbred horse racing in this state shall deduct from the purses required by s. 550.2625, an amount of money equal to 1 percent of the total purse pool and shall pay that amount to a horsemen's association representing the majority of the thoroughbred racehorse owners and trainers for its use in accordance with the stated goals of its articles of association filed with the Department of State.
(2) The funds are payable to the horsemen's association only upon presentation of a sworn statement by the officers of the association that the horsemen's association represents a majority of the owners and trainers of thoroughbred horses stabled in the state.
(3) Upon receiving a state license, each thoroughbred owner and trainer shall receive automatic membership in the horsemen's association as defined in subsection (1) and be counted on the membership rolls of that association, unless, within 30 calendar days after receipt of license from the state, the individual declines membership in writing, to the association as defined in subsection (1).
(4) The commission shall adopt rules to facilitate the orderly transfer of funds in accordance with this section. The commission shall also monitor the membership rolls of the horsemen's association to ensure that complete, accurate, and timely listings are maintained for the purposes specified in this section.
History.—s. 30, ch. 92-348; s. 9, ch. 95-390; s. 31, ch. 97-98; s. 28, ch. 2022-7.

550.26165 BREEDERS' AWARDS

(1) The purpose of this section is to encourage the agricultural activity of breeding and training racehorses in this state. Moneys dedicated in this chapter for use as breeders' awards and stallion awards are to be used for awards to breeders of registered Florida-bred horses winning horseraces and for similar awards to the owners of stallions who sired Florida-bred horses winning stakes races, if the stallions are registered as Florida stallions standing in this state. Such awards shall be given at a uniform rate to all winners of the awards, shall not be greater than 20 percent of the announced gross purse, and shall not be less than 15 percent of the announced gross purse if funds are available. In addition, no less than 17 percent nor more than 40 percent, as determined by the Florida Thoroughbred Breeders' Association, of the moneys dedicated in this chapter for use as breeders' awards and stallion awards for thoroughbreds shall be returned pro rata to the permitholders that generated the moneys for special racing awards to be distributed by the permitholders to owners of thoroughbred horses participating in prescribed thoroughbred stakes races, nonstakes races, or both, all in accordance with a written agreement establishing the rate, procedure, and eligibility requirements for such awards entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc., except that the plan for the distribution by any permitholder located in the area described in s. 550.615(9) shall be agreed upon by that permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at that location. Awards for thoroughbred races are to be paid through the Florida Thoroughbred Breeders' Association, and awards for standardbred races are to be paid through the Florida Standardbred Breeders and Owners Association. Among other sources specified in this chapter, moneys for thoroughbred breeders' awards will come from the 0.955 percent of handle for thoroughbred races conducted, received, broadcast, or simulcast under this chapter as provided in s. 550.2625(3). The moneys for quarter horse and harness breeders' awards will come from the breaks and uncashed tickets on live quarter horse and harness racing performances and 1 percent of handle on intertrack wagering. The funds for these breeders' awards shall be paid to the respective breeders' associations by the permitholders conducting the races.
(2) Each breeders' association shall develop a plan each year that will provide for a uniform rate of payment and procedure for breeders' and stallion awards. The plan for payment of breeders' and stallion awards may set a cap on winnings and may limit, exclude, or defer payments on certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate for breeders' and stallion awards to be less than 15 percent of the total purse payment. The plan must provide for the maximum possible payments within revenues.
(3) Breeders' associations shall submit their plans to the commission at least 60 days before the beginning of the payment year. The payment year may be a calendar year or any 12-month period, but once established, the yearly base may not be changed except for compelling reasons. Once a plan is approved, the commission may not allow the plan to be amended during the year, except for the most compelling reasons.
(4) It is not intended that the funds in the breeders' association special payment account be allowed to grow excessively, although there is no intent to require that payment each year equal receipts each year. The rate each year shall be adjusted to compensate for changing revenues from year to year.
(5)(a) The awards programs in this chapter, which are intended to encourage thoroughbred breeding and training operations to locate in this state, must be responsive to rapidly changing incentive programs in other states. To attract such operations, it is appropriate to provide greater flexibility to thoroughbred industry participants in this state so that they may design competitive awards programs.
(b) Notwithstanding any other provision of law to the contrary, the Florida Thoroughbred Breeders' Association, as part of its annual plan, may:
1. Pay breeders' awards on horses finishing in first, second, or third place in thoroughbred horse races; pay breeders' awards that are greater than 20 percent and less than 15 percent of the announced gross purse; and vary the rates for breeders' awards, based upon the place of finish, class of race, state or country in which the race took place, and the state in which the stallion siring the horse was standing when the horse was conceived;
2. Pay stallion awards on horses finishing in first, second, or third place in thoroughbred horse races; pay stallion awards that are greater than 20 percent and less than 15 percent of the announced gross purse; reduce or eliminate stallion awards to enhance breeders' awards or awards under subparagraph 3.; and vary the rates for stallion awards, based upon the place of finish, class of race, and state or country in which the race took place; and
3. Pay awards from the funds dedicated for breeders' awards and stallion awards to owners of registered Florida-bred horses finishing in first, second, or third place in thoroughbred horse races in this state, without regard to any awards paid pursuant to s. 550.2625(6).
(c) Breeders' awards or stallion awards under this chapter may not be paid on thoroughbred horse races taking place in other states or countries unless agreed to in writing by all thoroughbred permitholders in this state, the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc.
History.—s. 31, ch. 92-348; s. 25, ch. 2000-354; s. 1, ch. 2003-295; s. 12, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 29, ch. 2022-7.

550.2625 HORSERACING; MINIMUM PURSE REQUIREMENT, FLORIDA BREEDERS' AND OWNERS' AWARDS

(1) The purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing

meets in this state which in turn helps to produce maximum racing revenues for the state and the counties.

(2) Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.75 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.75 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

(b)1. A permitholder conducting a harness horse race meet under this chapter must pay to the purse pool from the takeout withheld a purse requirement that totals an amount not less than 8.25 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.75 percent of the total handle shall be paid from this purse pool as purses.

2. An amount not to exceed 0.5 percent of the total handle on all harness horse races that are subject to the purse requirement of subparagraph 1., must be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits must be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, must be submitted by the Florida Standardbred Breeders and Owners Association for approval to the commission. An annual report of the implemented plan shall be submitted to the commission. All records of the Florida Standardbred Breeders and Owners Association concerning the administration of the plan must be available for audit at the discretion of the commission to determine that the plan has been implemented and administered as authorized. If the commission finds that the Florida Standardbred Breeders and Owners Association has not complied with the provisions of this section, the commission may order the association to cease and desist from administering the plan and shall appoint the commission as temporary administrator of the plan until the commission reestablishes administration of the plan with the association.

(c) A permitholder conducting a quarter horse race meet under this chapter shall pay from the takeout withheld a sum not less than 6 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The commission shall adopt reasonable rules to ensure the timely and accurate payment of all amounts withheld by horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for payment to owners and breeders. Each permitholder that fails to pay out all moneys collected for payment to owners and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and breeders in accordance with commission rules.

(e) An amount equal to 8.5 percent of the purse account generated through intertrack wagering and interstate simulcasting will be used for Florida Owners' Awards as set forth in subsection (3). Any thoroughbred permitholder with an average blended takeout which does not exceed 20 percent and with an average daily purse distribution excluding sponsorship, entry fees, and nominations exceeding $225,000 is exempt from the provisions of this paragraph.

(3) Each horseracing permitholder conducting any thoroughbred race under this chapter, including any intertrack race taken pursuant to ss. 550.615-550.6305 or any interstate simulcast taken pursuant to s. 550.3551(3) shall pay a sum equal to 0.955 percent on all pari-mutuel pools conducted during any such race for the payment of breeders', stallion, or special racing awards as authorized in this chapter. This subsection also applies to all Breeder's Cup races conducted outside this state taken pursuant to s. 550.3551(3). On any race originating live in this state which is broadcast out-of-state to any location at which wagers are accepted pursuant to s. 550.3551(2), the host track is required to pay 3.475 percent of the gross revenue derived from such out-of-state broadcasts as breeders', stallion, or special racing awards. The Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the commission as prescribed by the commission. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders', stallion, or special racing awards in accordance with the following provisions:

(a) The breeder of each Florida-bred thoroughbred horse winning a thoroughbred horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred thoroughbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) The owners of thoroughbred horses participating in thoroughbred stakes races, nonstakes races, or both may receive a special racing award in accordance with the agreement established pursuant to s. 550.26165(1).

(d) In order for a breeder of a Florida-bred thoroughbred horse to be eligible to receive a breeder's award, the horse must have been registered as a Florida-bred horse with the Florida Thoroughbred Breeders' Association, and the Jockey Club certificate for the horse must show that it has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Thoroughbred Breeders' Association registry. The Florida Thoroughbred Breeders' Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(e) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state during the period of time between February 1 and June 15 of each year or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state during the period of time between February 1 and June 15 of any year for any reason, other

than exclusively for prescribed medical treatment, as approved by the Florida Thoroughbred Breeders' Association, renders the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(f) A permitholder conducting a thoroughbred horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Thoroughbred Breeders' Association such information relating to the thoroughbred horses winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders', stallion, and special racing awards.

(g) The Florida Thoroughbred Breeders' Association shall maintain complete records showing the starters and winners in all races conducted at thoroughbred tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(h) The Florida Thoroughbred Breeders' Association shall annually establish a uniform rate and procedure for the payment of breeders' and stallion awards and shall make breeders' and stallion award payments in strict compliance with the established uniform rate and procedure plan. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Such plan must include proposals for the general promotion of the industry. Priority shall be placed upon imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The uniform rate and procedure plan must be approved by the commission before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 15 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(i) The Florida Thoroughbred Breeders' Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the commission showing such receipts and disbursements and the sums withheld for administration. The commission may audit the records and accounts of the Florida Thoroughbred Breeders' Association to determine that payments have been made to eligible breeders and stallion owners in accordance with this section.

(j) If the commission finds that the Florida Thoroughbred Breeders' Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section. If the commission enters such an order, the permitholder shall make the payments authorized in this section to the commission for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Thoroughbred Breeders' Association account shall be immediately paid to the commission for deposit to the Pari-mutuel Wagering Trust Fund. The commission shall authorize payment from these funds to any breeder or stallion owner entitled to an award that has not been previously paid by the Florida Thoroughbred Breeders' Association in accordance with the applicable rate.

(4) Each permitholder conducting a harness horse race under this chapter shall pay a sum equal to the breaks on all pari-mutuel pools conducted during that race for the payment of breeders' awards, stallion awards, and stallion stakes and for additional expenditures as authorized in this section. The Florida Standardbred Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Standardbred Breeders and Owners Association has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Standardbred Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the commission as prescribed by the commission. With the exception of the 10-percent fee for administering the payments and the use of the moneys authorized by paragraph (j), the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account; and such payments together with any interest earned shall be allocated for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding of, Florida-bred standardbred horses. Payment of breeders' awards and stallion awards shall be made in accordance with the following provisions:

(a) The breeder of each Florida-bred standardbred horse winning a harness horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred standardbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred standardbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Standardbred Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the United States Trotting Association registry. The Florida Standardbred Breeders and Owners Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a standardbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Standardbred Breeders and Owners Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, renders the owner or the owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards

earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a harness horse race under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Standardbred Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the starters and winners in all races conducted at harness horse racetracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Standardbred Breeders and Owners Association shall annually establish a uniform rate and procedure for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses and shall make award payments and allocations in strict compliance with the established uniform rate and procedure. The plan may set a cap on winnings, and may limit, exclude, or defer payments to certain classes of races, such as the Florida Breeders' stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate allocated to payment of breeder and stallion awards to be less than 10 percent of the total purse payment. The uniform rate and procedure must be approved by the commission before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 10 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Standardbred Breeders and Owners Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the commission showing such receipts and disbursements and the sums withheld for administration. The commission may audit the records and accounts of the Florida Standardbred Breeders and Owners Association to determine that payments have been made to eligible breeders, stallion owners, and owners of Florida-bred standardbred horses in accordance with this section.

(i) If the commission finds that the Florida Standardbred Breeders and Owners Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section and under s. 550.2633. If the commission enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the commission for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Standardbred Breeders and Owners Association account shall be immediately paid to the commission for deposit to the Pari-mutuel Wagering Trust Fund. The commission shall authorize payment from these funds to any breeder, stallion owner, or owner of a Florida-bred standardbred horse entitled to an award that has not been previously paid by the Florida Standardbred Breeders and Owners Association in accordance with the applicable rate.

(j) The board of directors of the Florida Standardbred Breeders and Owners Association may authorize the release of up to 25 percent of the funds available for breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses to be used for purses for, and promotion of, Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless, and to the extent that, such release would render the funds available for such awards insufficient to pay the breeders' and stallion awards earned pursuant to the annual plan of the association. Any such funds so released and used for purses are not considered to be an "announced gross purse" as that term is used in paragraphs (a) and (b), and no breeders' or stallion awards, stallion stakes, or owner awards are required to be paid for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released and the meets eligible to receive such funds for purses must be approved by the board of directors of the Florida Standardbred Breeders and Owners Association.

(5)(a) Except as provided in subsections (7) and (8), each permitholder conducting a quarter horse race meet under this chapter shall pay a sum equal to the breaks plus a sum equal to 1 percent of all pari-mutuel pools conducted during that race for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state as authorized in this section. The Florida Quarter Horse Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Quarter Horse Breeders and Owners Association, Inc., referred to in this chapter as the Florida Quarter Horse Breeders and Owners Association, has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Quarter Horse Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the commission as prescribed by the commission. With the exception of the 5-percent fee for administering the payments, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account.

(b) The Florida Quarter Horse Breeders and Owners Association shall use these funds solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state and for general administration of the Florida Quarter Horse Breeders and Owners Association, Inc., in this state.

(c) In order for an owner or breeder of a Florida-bred quarter horse to be eligible to receive an award, the horse winning a race must have been registered as a Florida-bred horse with the Florida Quarter Horse Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winning horse has been duly registered prior to the race as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Quarter Horse Breeders and Owners Association registry. The Department of Agriculture and Consumer Services is authorized to assist the association in maintaining this registry. The Florida Quarter Horse Breeders and Owners Association may charge the registrant a reasonable fee for this verification and registration. Any person who registers unqualified horses or misrepresents information in any way shall be denied any future participation in breeders' awards, and all horses misrepresented will no longer be deemed to be Florida-bred.

(d) A permitholder conducting a quarter horse race under a quarter horse permit under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Quarter Horse Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards under this section.

(e) The Florida Quarter Horse Breeders and Owners Association shall maintain complete records showing the starters and winners in all quarter horse races conducted under quarter horse permits in this state; shall maintain complete records showing awards earned, received, and

distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.
(f) The Florida Quarter Horse Breeders and Owners Association shall keep accurate records showing receipts and disbursements of payments made under this section and shall annually file a full and complete report to the commission showing such receipts and disbursements and the sums withheld for administration. The commission may audit the records and accounts of the Florida Quarter Horse Breeders and Owners Association to determine that payments have been made in accordance with this section.
(g) The Florida Quarter Horse Breeders and Owners Association shall annually establish a plan for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding Florida-bred racing quarter horses and shall make award payments and allocations in strict compliance with the annual plan. The annual plan must be approved by the commission before implementation. If the funds in the account for payment of purses and prizes are not sufficient to meet all purses and prizes to be awarded, those breeders and owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.
(h) If the commission finds that the Florida Quarter Horse Breeders and Owners Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section and s. 550.2633. If the commission enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the commission for deposit into the Pari-mutuel Wagering Trust Fund, and any funds in the Florida Quarter Horse Breeders and Owners Association account shall be immediately paid to the commission for deposit to the Pari-mutuel Wagering Trust Fund. The commission shall authorize payment from these funds to any breeder or owner of a quarter horse entitled to an award that has not been previously paid by the Florida Quarter Horse Breeders and Owners Association in accordance with this section.
(6)(a) The takeout may be used for the payment of awards to owners of registered Florida-bred horses placing first in a claiming race, an allowance race, a maiden special race, or a stakes race in which the announced purse, exclusive of entry and starting fees and added moneys, does not exceed $40,000.
(b) The permitholder shall determine for each qualified race the amount of the owners' award for which a registered Florida-bred horse will be eligible. The amount of the available owners' award shall be established in the same manner in which purses are established and shall be published in the condition book for the period during which the race is to be conducted. No single award may exceed 50 percent of the gross purse for the race won.
(c) If the moneys generated under paragraph (a) during the meet exceed the owners' awards earned during the meet, the excess funds shall be held in a separate interest-bearing account, and the total interest and principal shall be used to increase the owners' awards during the permitholder's next meet.
(d) Breeders' awards authorized by subsections (3) and (4) may not be paid on owners' awards.
(e) This subsection governs owners' awards paid on thoroughbred horse races only in this state, unless a written agreement is filed with the commission establishing the rate, procedures, and eligibility requirements for owners' awards, including place of finish, class of race, maximum purse, and maximum award, and the agreement is entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the racehorse owners and trainers at the permitholder's location.
(7)(a) Each permitholder that conducts race meets under this chapter and runs Appaloosa races shall pay to the commission a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Appaloosa race. The payments shall be remitted to the commission by the 5th day of each calendar month for sums accruing during the preceding calendar month.
(b) The commission shall deposit these collections to the credit of the General Inspection Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Account." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Account shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and the moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter.
(8) Each permitholder that conducts race meets under this chapter and runs Arabian horse races shall pay to the commission a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Arabian horse race. The payments shall be remitted to the commission by the 5th day of each calendar month for sums accruing during the preceding calendar month.
History.—s. 32, ch. 92-348; s. 4, ch. 93-123; s. 10, ch. 95-390; ss. 10, 26, ch. 96-364; ss. 5, 6, ch. 98-190; ss. 1, 6, ch. 98-217; s. 55, ch. 2000-154; s. 26, ch. 2000-354; s. 20, ch. 2001-279; s. 83, ch. 2002-1; s. 2, ch. 2003-295; s. 5, ch. 2006-79; s. 13, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 43, ch. 2013-226; s. 30, ch. 2022-7.

550.2633 HORSERACING; DISTRIBUTION OF ABANDONED INTEREST IN OR CONTRIBUTIONS TO PARI-MUTUEL POOLS

(1) All moneys or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any horseracing permitholder authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, when the rightful owner or owners thereof have made no claim or demand for such money or other property within that period, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.
(2) All moneys or other property which has escheated to and become the property of the state as provided herein and which is held by a permitholder authorized to conduct pari-mutuel pools in this state shall be paid annually by the permitholder to the recipient designated in this subsection within 60 days after the close of the race meeting of the permitholder. Section 550.1645 notwithstanding, the moneys shall be paid by the permitholder as follows:
(a) Funds from any harness horse races shall be paid to the Florida Standardbred Breeders and Owners Association and shall be used for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses, as provided for in s. 550.2625.
(b) Funds from quarter horse races shall be paid to the Florida Quarter Horse Breeders and Owners Association and shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state, as provided for in s. 550.2625.
(3) Uncashed tickets and breaks on live racing conducted by thoroughbred permitholders shall be retained by the permitholder conducting the live race.
History.—s. 33, ch. 92-348; s. 26, ch. 2001-63; s. 21, ch. 2001-279; s. 84, ch. 2002-1; s. 6, ch. 2006-79; s. 44, ch. 2013-226.

550.26352 BREEDERS' CUP MEET; POOLS AUTHORIZED; CONFLICTS; TAXES; CREDITS; TRANSMISSION OF RACES; RULES; APPLICATION

(1) Notwithstanding any provision of this chapter to the contrary, there is hereby created a special thoroughbred race meet which shall be designated as the "Breeders' Cup Meet." The Breeders' Cup Meet shall be conducted at the facility of the Florida permitholder selected by Breeders' Cup Limited to conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall consist of 3 days: the day on which the Breeders' Cup races are conducted, the preceding day, and the subsequent day. Upon the selection of the Florida permitholder as host for the Breeders' Cup Meet and application by the selected permitholder, the commission shall issue a license to the selected permitholder to operate the Breeders' Cup Meet. Notwithstanding s. 550.09515(2)(a), the Breeders' Cup Meet may be conducted on dates which the selected permitholder is not otherwise authorized to conduct a race meet.

(2) The permitholder conducting the Breeders' Cup Meet is specifically authorized to create pari-mutuel pools during the Breeders' Cup Meet by accepting pari-mutuel wagers on the thoroughbred horse races run during said meet.

(3) If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3 days of the Breeders' Cup Meet, then operation on any of those 3 days by the other permitholders is prohibited. As compensation for the loss of racing days caused thereby, such operating permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but shall not exceed a total of $950,000. The determination of the amount to be credited shall be made by the commission upon application by the operating permitholder. The tax credits provided in this subsection shall not be available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4) Notwithstanding any provision of ss. 550.0951 and 550.09515, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder to pay the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses which the permitholder is otherwise required by law to pay. The amount to be credited shall be determined by the commission upon application of the permitholder which is subject to audit by the commission.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the commission upon application of the permitholder which is subject to audit by the commission.

(7) The permitholder conducting the Breeders' Cup Meet shall be exempt from the payment of purses and other payments to horsemen on all on-track, intertrack, interstate, and international wagers or rights fees or payments arising therefrom for all races for which the purse is paid or supplied by Breeders' Cup Limited. The permitholder conducting the Breeders' Cup Meet shall not, however, be exempt from breeders' awards payments for on-track and intertrack wagers as provided in ss. 550.2625(3) and 550.625(2)(a) for races in which the purse is paid or supplied by Breeders' Cup Limited.

(8)(a) Pursuant to s. 550.3551(2), the permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to locations outside of this state for wagering purposes. The commission may approve broadcasts to pari-mutuel permitholders and other betting systems authorized under the laws of any other state or country. Wagers accepted by any out-of-state pari-mutuel permitholder or betting system on any races broadcast under this section may be, but are not required to be, commingled with the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet. The calculation of any payoff on national pari-mutuel pools with commingled wagers may be performed by the permitholder's totalisator contractor at a location outside of this state. Pool amounts from wagers placed at pari-mutuel facilities or other betting systems in foreign countries before being commingled with the pari-mutuel pool of the Florida permitholder conducting the Breeders' Cup Meet shall be calculated by the totalisator contractor and transferred to the commingled pool in United States currency in cycles customarily used by the permitholder. Pool amounts from wagers placed at any foreign pari-mutuel facility or other betting system shall not be commingled with a Florida pool until a determination is made by the commission that the technology utilized by the totalisator contractor is adequate to assure commingled pools will result in the calculation of accurate payoffs to Florida bettors. Any totalisator contractor at a location outside of this state shall comply with the provisions of s. 550.495 relating to totalisator licensing.

(b) The permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities located in this state for wagering purposes; however, the permitholder conducting the Breeders' Cup Meet shall not be required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted.

(9) The exemption from the tax credits provided in subsections (5) and (6) shall not be granted and shall not be claimed by the permitholder until an audit is completed by the commission. The commission is required to complete the audit within 30 days of receipt of the necessary documentation from the permitholder to verify the permitholder's claim for tax credits. If the documentation submitted by the permitholder is incomplete or is insufficient to document the permitholder's claim for tax credits, the commission may request such additional documentation as is necessary to complete the audit. Upon receipt of the commission's written request for additional documentation, the 30-day time limitation will commence anew.

(10) The commission is authorized to adopt such rules as are necessary to facilitate the conduct of the Breeders' Cup Meet as authorized in this section. Included within this grant of authority shall be the adoption or waiver of rules regarding the overall conduct of racing during the Breeders' Cup Meet so as to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

(11) Any dispute between the commission and any permitholder regarding the tax credits authorized under subsection (3), subsection (5), or subsection (6) shall be determined by a hearing officer of the Division of Administrative Hearings under the provisions of s. 120.57(1).

(12) The provisions of this section shall prevail over any conflicting provisions of this chapter.

History.—s. 3, ch. 93-123; s. 11, ch. 96-364; s. 19, ch. 2000-354; s. 31, ch. 2022-7.

550.2704 JAI ALAI TOURNAMENT OF CHAMPIONS MEET

(1) Notwithstanding any provision of this chapter, there is hereby created a special jai alai meet which shall be designated as the "Jai Alai Tournament of Champions Meet" and which shall be hosted by the Florida jai alai permitholders selected by the National Association of Jai Alai Frontons, Inc., to conduct such meet. The meet shall consist of three qualifying performances and a final performance, each of which is to be conducted on different days. Upon the selection of the Florida permitholders for the meet, and upon application by the selected permitholders, the commission shall issue a license to each of the selected permitholders to operate the meet. The meet may be conducted during a season in which the permitholders selected to conduct the meet are not otherwise authorized to conduct a meet. Notwithstanding anything herein to the contrary, any Florida permitholder who is to conduct a performance which is a part of the Jai Alai Tournament of Champions Meet shall not be required to apply for the license for said meet if it is to be run during the regular season for which such permitholder has a license.
(2) Qualifying performances and the final performance of the tournament shall be held at different locations throughout the state, and the permitholders selected shall be under different ownership to the extent possible.
(3) Notwithstanding any provision of this chapter, each of the permitholders licensed to conduct performances comprising the Jai Alai Tournament of Champions Meet shall pay no taxes on handle under s. 550.0951 or s. 550.09511 for any performance conducted by such permitholder as part of the Jai Alai Tournament of Champions Meet. The provisions of this subsection shall apply to a maximum of four performances.
(4) The Jai Alai Tournament of Champions Meet permitholders shall also receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet. This credit shall be in the aggregate amount of $150,000, shall be prorated equally between the permitholders, and shall be utilized by the permitholders solely to supplement awards for the performance conducted during the Jai Alai Tournament of Champions Meet. All awards shall be paid to the tournament's participating players no later than 30 days following the conclusion of said Jai Alai Tournament of Champions Meet.
(5) In addition to the credit authorized in subsection (4), the Jai Alai Tournament of Champions Meet permitholders shall receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet, in an amount not to exceed the aggregate amount of $150,000, which shall be prorated equally between the permitholders, and shall be utilized by the permitholders for such capital improvements and extraordinary expenses, including marketing expenses, as may be necessary for the operation of the meet. The determination of the amount to be credited shall be made by the commission upon application of said permitholders.
(6) The permitholder shall be entitled to said permitholder's pro rata share of the $150,000 tax credit provided in subsection (5) without having to make application, so long as appropriate documentation to substantiate said expenditures thereunder is provided to the commission within 30 days following said Jai Alai Tournament of Champions Meet.
(7) No Jai Alai Tournament of Champions Meet shall exceed 4 days in any state fiscal year, and no more than one performance shall be conducted on any one day of the meet. There shall be only one Jai Alai Tournament of Champions Meet in any state fiscal year.
(8) The commission is authorized to adopt such rules as are necessary to facilitate the conduct of the Jai Alai Tournament of Champions Meet as authorized in this section. Included within this grant of authority shall be the adoption of rules regarding the overall conduct of the tournament so as to ensure the integrity of the event, licensing for participants, commingling of pari-mutuel pools, and audit requirements for tax credits and exemptions.
(9) The provisions of this section shall prevail over any conflicting provisions of this chapter.
History.—s. 4, ch. 94-328; s. 32, ch. 2022-7.

550.285 OBTAINING FEED OR OTHER SUPPLIES FOR RACEHORSES OR GREYHOUND RACING DOGS WITH INTENT TO DEFRAUD

(1) Any owner, trainer, or custodian of any horse or dog that is being used, or is being bred, raised, or trained to be used in racing at a pari-mutuel facility who obtains food, drugs, transportation, veterinary services, or supplies for the use or benefit of the horse or dog, with intent to defraud the person from whom the food, drugs, transportation, veterinary services, or supplies are obtained, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(2) In prosecutions under this section, proof that the food, drugs, transportation, veterinary services, or supplies had been furnished and not paid for, and that the owner, trainer, or custodian of the horse or dog was removing or attempting to remove any horse or dog out of the state and beyond the jurisdiction of the courts of this state, is prima facie evidence of intent to defraud under this section.
History.—s. 36, ch. 92-348.

550.334 QUARTER HORSE RACING; SUBSTITUTIONS

(1) The operator of any licensed racetrack is authorized to lease such track to any quarter horse racing permitholder located within 35 miles of such track for the conduct of quarter horse racing under this chapter. However, a quarter horse facility located in a county where a referendum was conducted to authorize slot machines pursuant to s. 23, Art. X of the State Constitution is not subject to the mileage restriction if they lease from a licensed racetrack located within a county where a referendum was conducted to authorize slot machines pursuant to s. 23, Art. X of the State Constitution.
(2) All other provisions of this chapter, including s. 550.054, apply to, govern, and control such racing, and the same must be conducted in compliance therewith.
(3) Quarter horses participating in such races must be duly registered by the American Quarter Horse Association, and before each race such horses must be examined and declared in fit condition by a qualified person designated by the commission.
(4) Any quarter horse racing days permitted under this chapter are in addition to any other racing permitted under the license issued the track where such quarter horse racing is conducted.
(5) Any quarter horse racing permitholder operating under a valid permit issued by the commission is authorized to substitute races of other breeds of horses which are, respectively, registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Palomino Horse Breeders of America, United States Trotting Association, Florida Cracker Horse Association, or Jockey Club for no more than 50 percent of the quarter horse races during its meet.
(6) Except as provided in s. 550.3345, a quarter horse permit issued pursuant to this section is not eligible for transfer or conversion to another type of pari-mutuel operation.
(7) Any nonprofit corporation, including, but not limited to, an agricultural cooperative marketing association, organized and incorporated under the laws of this state may apply for a quarter horse racing permit and operate racing meets under such permit, provided all pari-mutuel taxes and fees applicable to such racing are paid by the corporation. However, insofar as its pari-mutuel operations are concerned, the corporation shall be considered to be a corporation for

profit and is subject to taxation on all property used and profits earned in connection with its pari-mutuel operations.
History.—s. 37, ch. 92-348; s. 11, ch. 95-390; s. 789, ch. 97-103; s. 3, ch. 2005-288; s. 14, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 41, ch. 2011-4; s. 20, ch. 2021-271; s. 33, ch. 2022-7.

550.3345 CONVERSION OF QUARTER HORSE PERMIT TO A LIMITED THOROUGHBRED PERMIT

(1) In recognition of the important and long-standing economic contribution of the thoroughbred horse breeding industry to this state and the state's vested interest in promoting the continued viability of this agricultural activity, the state intends to provide a limited opportunity for the conduct of live thoroughbred horse racing with the net revenues from such racing dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.
(2) Notwithstanding any other provision of law, the holder of a quarter horse racing permit issued under s. 550.334 may, within 1 year after the effective date of this section, apply to the commission for a transfer of the quarter horse racing permit to a not-for-profit corporation formed under state law to serve the purposes of the state as provided in subsection (1). The board of directors of the not-for-profit corporation must be comprised of 11 members, 4 of whom shall be designated by the applicant, 4 of whom shall be designated by the Florida Thoroughbred Breeders' Association, and 3 of whom shall be designated by the other 8 directors, with at least 1 of these 3 members being an authorized representative of another thoroughbred permitholder in this state. The not-for-profit corporation shall submit an application to the commission for review and approval of the transfer in accordance with s. 550.054. Upon approval of the transfer by the commission, and notwithstanding any other provision of law to the contrary, the not-for-profit corporation may, within 1 year after its receipt of the permit, request that the commission convert the quarter horse racing permit to a permit authorizing the holder to conduct pari-mutuel wagering meets of thoroughbred racing. Neither the transfer of the quarter horse racing permit nor its conversion to a limited thoroughbred permit shall be subject to the mileage limitation or the ratification election as set forth under s. 550.054(2) or s. 550.0651. Upon receipt of the request for such conversion, the commission shall timely issue a converted permit. The converted permit and the not-for-profit corporation shall be subject to the following requirements:
(a) All net revenues derived by the not-for-profit corporation under the thoroughbred horse racing permit and any license issued to the not-for-profit corporation under chapter 849, after the funding of operating expenses and capital improvements, shall be dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.
(b) From December 1 through April 30, no live thoroughbred racing may be conducted under the permit on any day during which another thoroughbred permitholder is conducting live thoroughbred racing within 125 air miles of the not-for-profit corporation's pari-mutuel facility unless the other thoroughbred permitholder gives its written consent.
(c) After the conversion of the quarter horse racing permit and the issuance of its initial license to conduct pari-mutuel wagering meets of thoroughbred racing, the not-for-profit corporation shall annually apply to the commission for a license pursuant to s. 550.5251.
(d) Racing under the permit may take place only at the location for which the original quarter horse racing permit was issued, which may be leased by the not-for-profit corporation for that purpose; however, the not-for-profit corporation may, without the conduct of any ratification election pursuant to s. 550.054(13) or s. 550.0651, move the location of the permit to another location in the same county provided that such relocation is approved under the zoning and land use regulations of the applicable county or municipality.
(e) A permit converted under this section and a license issued to the not-for-profit corporation under chapter 849 are not eligible for transfer to another person or entity.
(3) Unless otherwise provided in this section, after conversion, the permit and the not-for-profit corporation shall be treated under the laws of this state as a thoroughbred permit and as a thoroughbred permitholder, respectively, with the exception of ss. 550.09515(3) and 550.6308.
History.—s. 15, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 42, ch. 2011-4; s. 21, ch. 2021-271; s. 34, ch. 2022-7.

550.3355 HARNESS TRACK LICENSES FOR SUMMER QUARTER HORSE RACING

Any harness track licensed to operate under the provisions of s. 550.375 may make application for, and shall be issued by the commission, a license to operate not more than 50 quarter horse racing days during the summer season, which shall extend from July 1 until October 1 of each year. However, this license to operate quarter horse racing for 50 days is in addition to the racing days and dates provided in s. 550.375 for harness racing during the winter seasons, and it does not affect the right of such licensee to operate harness racing at the track as provided in s. 550.375 during the winter season. All provisions of this chapter governing quarter horse racing not in conflict herewith apply to the operation of quarter horse meetings authorized hereunder, except that all quarter horse racing permitted hereunder shall be conducted at night.
History.—s. 38, ch. 92-348; s. 16, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 35, ch. 2022-7.

550.3551 TRANSMISSION OF RACING AND JAI ALAI INFORMATION; COMMINGLING OF PARI-MUTUEL POOLS

(1)(a) It is unlawful for any person to transmit, by any means, racing information to any person or to relay the same to any person by word of mouth, by signal, or by use of telephone, telegraph, radio, or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of illegal gambling.
(b) Paragraph (a) shall be deemed an exercise of the police power of the state for the protection of the public welfare, health, peace, safety, and morals of the people of the state, and this section shall be liberally construed for the accomplishment of this purpose.
(c) A person who violates paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any horse track or fronton licensed under this chapter may transmit broadcasts of races or games conducted at the enclosure of the licensee to locations outside this state.
(a) All broadcasts of horseraces transmitted to locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.
(b) Wagers accepted by any out-of-state pari-mutuel permitholder or licensed betting system on a race broadcasted under this subsection may be, but are not required to be, included in the pari-mutuel pools of the horse track in this state that broadcasts the race upon which wagers are accepted. The handle, as referred to in s. 550.0951(3), does not include any wagers accepted by an out-of-state pari-mutuel permitholder or licensed betting system, irrespective of whether such wagers are included in the pari-mutuel pools of the Florida permitholder as authorized by this subsection.
(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located

outside this state at the racetrack enclosure of the licensee during its racing meet.

(a) All broadcasts of horseraces received from locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted at the horse track in this state may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the horse track in this state elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-state horse track that broadcasts the race, from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track, the horse track in this state shall deduct as the takeout from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state racetrack as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a), (b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

(4) Any greyhound permitholder or jai alai permitholder licensed under this chapter may receive at its licensed location broadcasts of dograces or jai alai games conducted at other tracks or frontons located outside the state. All forms of pari-mutuel wagering are allowed on dograces or jai alai games broadcast under this subsection. All money wagered by patrons on dograces broadcast under this subsection shall be computed in the amount of money wagered each performance for purposes of taxation under ss. 550.0951 and 550.09511.

(5) A pari-mutuel permitholder licensed under this chapter may not receive broadcasts of races or games from outside this state except from an out-of-state pari-mutuel permitholder who holds the same type or class of pari-mutuel permit as the pari-mutuel permitholder licensed under this chapter who intends to receive the broadcast.

(6)(a) A permitholder conducting live races or games may not conduct fewer than eight live races or games on any authorized race day except as provided in this subsection. A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Breeders' Association and the Florida Horsemen's Benevolent and Protective Association, Inc., unless it is determined by the commission that another entity represents a majority of the thoroughbred racehorse owners and trainers in the state. If conducting live racing, a harness permitholder may conduct fewer than eight live races on any authorized race day. Any harness horse permitholder may receive full-card broadcasts of harness horse races conducted at harness racetracks outside this state at the harness track of the permitholder and accept wagers on such harness races.

(b) Notwithstanding any other provision of this chapter, any harness horse permitholder accepting broadcasts of out-of-state harness horse races when such permitholder is not conducting live races must make the out-of-state signal available to all permitholders eligible to conduct intertrack wagering and shall pay to guest tracks located as specified in ss. 550.615(6) and 550.6305(9)(d) 50 percent of the net proceeds after taxes and fees to the out-of-state host track on harness race wagers which they accept. A harness horse permitholder shall be required to pay into its purse account 50 percent of the net income retained by the permitholder on account of wagering on the out-of-state broadcasts received pursuant to this subsection. Nine-tenths of a percent of all harness wagering proceeds on the broadcasts received pursuant to this subsection shall be paid to the Florida Standardbred Breeders and Owners Association under the provisions of s. 550.2625(4) for the purposes provided therein.

(7) A racetrack or fronton may not pay any patron for any pari-mutuel ticket purchased on any race or game transmitted pursuant to this section until the stewards, judges, or panel of judges or other similarly constituted body at the racetrack or fronton where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or any other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event, except as otherwise provided in this section.

(9) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders under this section conflict with any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, or immunities granted under this section prevail over such conflicting provisions.

(10) The commission may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances in which different commission percentages are applicable and to regulate the distribution of net proceeds between the horse track and, in this state, the horsemen's associations.

(11) Greyhound permitholders and jai alai permitholders have the same privileges as provided in this section to horserace permitholders, as applicable, subject to rules adopted under subsection (10).

(12) All permitholders licensed under this chapter have standing to enforce the provisions of subsections (2) and (3) in the courts of this state.

(13) This section does not prohibit the commingling of national pari-mutuel pools by a totalisator company that is licensed under this chapter. Such commingling of national pools is subject to commission review and approval and must be performed in accordance with rules adopted by the commission to ensure accurate calculation and distribution of the pools.

(14) Notwithstanding the provisions of paragraph (3)(b) pertaining to takeout, takeouts different from those of the host track may be used when the totalisator is programmed for net pool pricing and the host track elects to use net pool pricing in the calculation of its pools. This provision shall also apply to greyhound intertrack and simulcast wagers.

History.—s. 39, ch. 92-348; s. 12, ch. 95-390; s. 12, ch. 96-364; s. 27, ch. 2000-354; s. 22, ch. 2021-271; s. 36, ch. 2022-7.

550.3615 BOOKMAKING ON THE GROUNDS OF A PERMITHOLDER; PENALTIES; REINSTATEMENT; DUTIES OF TRACK EMPLOYEES; PENALTY; EXCEPTIONS

(1) Any person who engages in bookmaking, as defined in s. 849.25, on the grounds or property of a pari-mutuel facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(2) Any person who, having been convicted of violating subsection (1), thereafter commits the same crime is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(3) Any person who has been convicted of bookmaking in this state or any other state of the United States or any foreign country shall be denied admittance to and shall not attend any pari-mutuel facility in

this state during its racing seasons or operating dates, including any practice or preparational days, for a period of 2 years after the date of conviction or the date of final appeal. Following the conclusion of the period of ineligibility, the director of the commission may authorize the reinstatement of an individual following a hearing on readmittance. Any such person who knowingly violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If the activities of a person show that this law is being violated, and such activities are either witnessed by or are common knowledge of any pari-mutuel facility employee, it is the duty of that employee to bring the matter to the immediate attention of the permitholder, manager, or her or his designee, who shall notify a law enforcement agency having jurisdiction. Willful failure by the pari-mutuel facility employee to comply with the provisions of this subsection is a ground for the commission to suspend or revoke that employee's license for pari-mutuel facility employment.

(5) Each permittee shall display, in conspicuous places at a pari-mutuel facility and in all race and jai alai daily programs, a warning to all patrons concerning the prohibition and penalties of bookmaking contained in this section and s. 849.25. The commission shall adopt rules concerning the uniform size of all warnings and the number of placements throughout a pari-mutuel facility. Failure on the part of the permittee to display such warnings may result in the imposition of a $500 fine by the commission for each offense.

(6) This section does not apply to any person employed by or attending a pari-mutuel facility who places a bet through the legalized pari-mutuel pool for another person, provided such service is rendered gratuitously and without fee or other reward.

(7) This section does not apply to any prosecutions filed and pending at the time of passage hereof, but all such cases shall be disposed of under existing law at the time of institution of such prosecutions.

History.—s. 41, ch. 92-348; s. 791, ch. 97-103; s. 23, ch. 2021-271; s. 37, ch. 2022-7.

550.3616 RACING GREYHOUNDS OR OTHER DOGS PROHIBITED; PENALTY

A person authorized to conduct gaming or pari-mutuel operations in this state may not race greyhounds or any member of the Canis familiaris subspecies in connection with any wager for money or any other thing of value in this state. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under this section may not have adjudication of guilt suspended, deferred, or withheld.

History.—s. 24, ch. 2021-271.

550.375 OPERATION OF CERTAIN HARNESS TRACKS

(1) The Legislature finds that the operation of harness tracks and legalized pari-mutuel and mutuel betting at harness tracks in this state will become a substantial business compatible with the best interests of the state, and the taxes derived therefrom will constitute an important and integral part of the tax structure of the state and counties. The Legislature further finds that the operation of harness tracks within the state will establish and encourage the acquisition and maintenance of breeding farms for the breeding of standardbred horses used in harness races, and that this exhibition sport will attract a large tourist business to the state.

(2) Any permittee or licensee authorized under this section to transfer the location of its permit may conduct harness racing only between the hours of 7 p.m. and 2 a.m. A permit so transferred applies only to the locations provided in this section. The provisions of this chapter which prohibit the location and operation of a licensed harness track permittee and licensee within 100 air miles of the location of a racetrack authorized to conduct racing under this chapter and which prohibit the commission from granting any permit to a harness track at a location in the area in which there are three horse tracks located within 100 air miles thereof do not apply to a licensed harness track that is required by the terms of this section to race between the hours of 7 p.m. and 2 a.m.

(3) A permit may not be issued by the commission for the operation of a harness track within 75 air miles of a location of a harness track licensed and operating under this chapter.

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).

(5) Each licensed harness track in the state must schedule an average of one race per racing day in which horses bred in this state and duly registered as standardbred harness horses have preference as entries over non-Florida-bred horses. All licensed harness tracks must write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to perform in the class races for which they are qualified, and the opportunity of performing must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. However, a track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be scheduled at such track during its meeting.

(6) If a permit has been transferred from a county under this section, no other transfer is permitted from such county.

History.—s. 42, ch. 92-348; s. 56, ch. 2000-154; s. 38, ch. 2022-7.

550.475 LEASE OF PARI-MUTUEL FACILITIES BY PARI-MUTUEL PERMITHOLDERS

Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities to any other holder of a same class valid pari-mutuel permit, when located within a 35-mile radius of each other; and such lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

History.—s. 43, ch. 92-348; s. 13, ch. 96-364; s. 16, ch. 2000-354; s. 25, ch. 2021-271.

550.495 TOTALISATOR LICENSING

(1) A totalisator may not be operated at a pari-mutuel facility in this state, or at a facility located in or out of this state which is used as the primary totalisator for a race or game conducted in this state, unless the totalisator company possesses a business license issued by the commission.

(2)(a) Each totalisator company must apply to the commission for an annual business license. The application must include such information as the commission by rule requires.

(b) As a part of its license application, each totalisator company must agree in writing to pay to the commission an amount equal to the loss of any state revenues from missed or canceled races, games, or performances due to acts of the totalisator company or its agents or employees or failures of the totalisator system, except for circumstances beyond the control of the totalisator company or agent or employee, as determined by the commission.

(c) Each totalisator company must file with the commission a performance bond, acceptable to the commission, in the sum of $250,000 issued by a surety approved by the commission or must file proof of insurance, acceptable to the commission, against financial loss in the amount of $250,000, insuring the state against such a revenue loss.

(d) In the event of a loss of state tax revenues, the commission shall determine:

1. The estimated revenue lost as a result of missed or canceled races, games, or performances;
2. The number of races, games, or performances which is practicable for the permitholder to conduct in an attempt to mitigate the revenue loss; and
3. The amount of the revenue loss which the makeup races, games, or performances will not recover and for which the totalisator company is liable.
(e) Upon the making of such determinations, the commission shall issue to the totalisator company and to the affected permitholder an order setting forth the determinations of the commission.
(f) If the order is contested by either the totalisator company or any affected permitholder, the provisions of chapter 120 apply. If the totalisator company contests the order on the grounds that the revenue loss was due to circumstances beyond its control, the totalisator company has the burden of proving that circumstances vary in fact beyond its control. For purposes of this paragraph, strikes and acts of God are beyond the control of the totalisator company.
(g) Upon the failure of the totalisator company to make the payment found to be due the state, the commission may cause the forfeiture of the bond or may proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering Trust Fund. If that bond was not posted or insurance obtained, the commission may proceed against any assets of the totalisator company to collect the amounts due under this subsection.
(3) If the applicant meets the requirements of this section and commission rules and pays the license fee, the commission shall issue the license.
(4) Each totalisator company shall conduct operations in accordance with rules adopted by the commission, in such form, content, and frequency as the commission by rule determines.
(5) The commission and its representatives may enter and inspect any area of the premises of a licensed totalisator company, and may examine totalisator records, during the licensee's regular business or operating hours.
History.—s. 44, ch. 92-348; s. 13, ch. 95-390; s. 39, ch. 2022-7.

550.505 NONWAGERING PERMITS

(1)(a) Except as provided in this section, permits and licenses issued by the commission are intended to be used for pari-mutuel wagering operations in conjunction with horseraces, dograces, or jai alai performances.
(b) Subject to the requirements of this section, the commission is authorized to issue permits for the conduct of horseracing meets without pari-mutuel wagering or any other form of wagering being conducted in conjunction therewith. Such permits shall be known as nonwagering permits and may be issued only for horseracing meets. A horseracing permitholder need not obtain an additional permit from the commission for conducting nonwagering racing under this section, but must apply to the commission for the issuance of a license under this section. The holder of a nonwagering permit is prohibited from conducting pari-mutuel wagering or any other form of wagering in conjunction with racing conducted under the permit. Nothing in this subsection prohibits horseracing for any stake, purse, prize, or premium.
(c) The holder of a nonwagering permit is exempt from the provisions of s. 550.105 and is exempt from the imposition of daily license fees and admission tax.
(2)(a) Any person not prohibited from holding any type of pari-mutuel permit under s. 550.1815 shall be allowed to apply to the commission for a nonwagering permit. The applicant must demonstrate that the location or locations where the nonwagering permit will be used are available for such use and that the applicant has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the nonwagering permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the nonwagering permit will be used for horseracing within 1 year after the date on which it is granted. If the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year after the issuance of the nonwagering permit.
(b) The commission may conduct an eligibility investigation to determine if the applicant meets the requirements of paragraph (a).
(3)(a) Upon receipt of a nonwagering permit, the permitholder must apply to the commission before June 1 of each year for an annual nonwagering license for the next succeeding calendar year. Such application must set forth the days and locations at which the permitholder will conduct nonwagering horseracing and must indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.
(b) On or before August 1 of each year, the commission shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the succeeding calendar year during the period and for the number of days set forth in the application, subject to all other provisions of this section.
(c) The commission may conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit.
(4) Upon the approval of racing dates by the commission, the commission shall issue an annual nonwagering license to the nonwagering permitholder.
(5) Only horses registered with an established breed registration organization, which organization shall be approved by the commission, shall be raced at any race meeting authorized by this section.
(6) The commission may order any person participating in a nonwagering meet to cease and desist from participating in such meet if the commission determines the person to be not of good moral character in accordance with s. 550.1815. The commission may order the operators of a nonwagering meet to cease and desist from operating the meet if the commission determines the meet is being operated for any illegal purpose.
History.—s. 45, ch. 92-348; s. 14, ch. 95-390; s. 40, ch. 2022-7.

550.5251 FLORIDA THOROUGHBRED RACING; CERTAIN PERMITS; OPERATING DAYS

(1) Each thoroughbred permitholder shall annually, during the period commencing December 15 of each year and ending January 4 of the following year, file in writing with the commission its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following July 1. Each application shall specify the number and dates of all performances that the permitholder intends to conduct during that thoroughbred racing season. On or before March 15 of each year, the commission shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to February 28 of each year, each permitholder may request and shall be granted changes in its authorized performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder must operate the full number of days authorized on each of the dates set forth in its license.
(2)(a) Each licensed thoroughbred permitholder in this state must run an average of one race per racing day in which horses bred in this state and duly registered with the Florida Thoroughbred Breeders' Association have preference as entries over non-Florida-bred horses, unless otherwise agreed to in writing by the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at that location. All licensed thoroughbred racetracks shall write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such

tracks are given full opportunity to run in the class of races for which they are qualified. The opportunity of running must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. A track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at the track during its meet.

(b) Each licensed thoroughbred permitholder in this state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred permitholder that elects to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America is not required to provide stables for the Arabian horses racing under this paragraph.

(c) Each licensed thoroughbred permitholder in this state may run up to three additional races per racing day composed exclusively of quarter horses registered with the American Quarter Horse Association.

History.—s. 46, ch. 92-348; s. 6, ch. 93-123; s. 14, ch. 96-364; s. 7, ch. 98-190; s. 39, ch. 2002-402; s. 3, ch. 2003-295; s. 18, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 26, ch. 2021-271; s. 41, ch. 2022-7.

550.615 INTERTRACK WAGERING

(1) Any thoroughbred permitholder licensed under this chapter which has conducted a full schedule of live racing may, at any time, receive broadcasts of horseraces and accept wagers on horseraces conducted by horserace permitholders licensed under this chapter at its facility.

(2) Except as provided in subsection (1), a pari-mutuel permitholder that has met the applicable requirement for that permitholder to conduct live racing or games under s. 550.01215(1)(b), if any, for fiscal year 2020-2021 is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

(3) If a permitholder elects to broadcast its signal to any permitholder in this state, any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345 is entitled to receive the broadcast and conduct intertrack wagering under this section; provided, however, that the host track may require a guest track within 25 miles of another permitholder to receive in any week at least 60 percent of the live races that the host track is making available on the days that the guest track is otherwise operating live races or games. A host track may require a guest track not operating live races or games and within 25 miles of another permitholder to accept within any week at least 60 percent of the live races that the host track is making available. A person may not restrain or attempt to restrain any permitholder that is otherwise authorized to conduct intertrack wagering from receiving the signal of any other permitholder or sending its signal to any permitholder.

(4) In no event shall any intertrack wager be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(5) No permitholder within the market area of the host track shall take an intertrack wager on the host track without the consent of the host track.

(6) Notwithstanding the provisions of subsection (3), in any area of the state where there are three or more horserace permitholders within 25 miles of each other, intertrack wagering between permitholders in said area of the state shall only be authorized under the following conditions: Any permitholder, other than a thoroughbred permitholder, may accept intertrack wagers on races or games conducted live by a permitholder of the same class or any harness permitholder located within such area and any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area specified in this subsection when no jai alai permitholder located within its market area is conducting live jai alai performances; any greyhound or jai alai permitholder may receive broadcasts of and accept wagers on any permitholder of the other class provided that a permitholder, other than the host track, of such other class is not operating a contemporaneous live performance within the market area.

(7) In any county of the state where there are only two permits, one for dogracing and one for jai alai, no intertrack wager may be taken during the period of time when a permitholder is not licensed to conduct live races or games without the written consent of the other permitholder that is conducting live races or games. However, if neither permitholder is conducting live races or games, either permitholder may accept intertrack wagers on horseraces or on the same class of races or games, or on both horseraces and the same class of races or games as is authorized by its permit.

(8) In any three contiguous counties of the state where there are only three permitholders, all of which are greyhound permitholders, if any permitholder leases the facility of another permitholder for all or any portion of the conduct of its live race meet pursuant to s. 550.475, such lessee may conduct intertrack wagering at its pre-lease permitted facility throughout the entire year.

(9) In any two contiguous counties of the state in which there are located only four active permits, one for thoroughbred horse racing, two for greyhound dogracing, and one for jai alai games, no intertrack wager may be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(10) All costs of receiving the transmission of the broadcasts shall be borne by the guest track; and all costs of sending the broadcasts shall be borne by the host track.

(11) Any greyhound permitholder licensed under this chapter to conduct pari-mutuel wagering is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

History.—s. 47, ch. 92-348; s. 2, ch. 93-123; s. 17, ch. 95-390; s. 15, ch. 96-364; ss. 8, 9, ch. 98-190; ss. 13, 44, ch. 2000-354; s. 13, ch. 2002-2; s. 27, ch. 2021-271.

550.625 INTERTRACK WAGERING; PURSES; BREEDERS' AWARDS

If a host track is a horse track:

(1) A host track racing under either a thoroughbred or quarter horse permit shall pay an amount equal to 7.0 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race meet. However, up to 0.50 percent of all wagers placed pursuant to s. 550.615 may, at the option of the host track, be deducted from the amount retained by the host track for purses to supplement the awards program for owners of Florida-bred horses as set forth in s. 550.2625(6). A host track racing under a harness permit shall pay an amount equal to 7 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race meet. If a host track underpays or overpays purses required by this section and s. 550.2625, the provisions of s. 550.2625 apply to the overpayment or underpayment.

(2) Of all wagers placed pursuant to the provisions of s. 550.615:

(a) If the host track is a thoroughbred track, an amount equal to 0.75 percent shall be paid to the Florida Thoroughbred Breeders' Association, Inc., for the payment of breeders' awards;

(b) If the host track is a harness track, an amount equal to 1 percent shall be paid to the Florida Standardbred Breeders and Owners Association, Inc., for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general

promotion of owning and breeding, Florida-bred standardbred horses; or

(c) If the host track is a quarter horse track, an amount equal to 1 percent shall be paid to the Florida Quarter Horse Breeders and Owners Association, Inc., for the payment of breeders' awards and general promotion.

(3) The payment to a breeders' organization shall be combined with any other amounts received by the respective breeders' and owners' associations as so designated. Each breeders' and owners' association receiving these funds shall be allowed to withhold the same percentage as set forth in s. 550.2625 to be used for administering the payment of awards and for the general promotion of their respective industries. If the total combined amount received for thoroughbred breeders' awards exceeds 15 percent of the purse required to be paid under subsection (1), the breeders' and owners' association, as so designated, notwithstanding any other provision of law, shall submit a plan to the commission for approval which would use the excess funds in promoting the breeding industry by increasing the purse structure for Florida-breds. Preference shall be given to the track generating such excess.

History.—s. 48, ch. 92-348; s. 17, ch. 2000-354; s. 42, ch. 2022-7.

550.6305 INTERTRACK WAGERING; GUEST TRACK PAYMENTS; ACCOUNTING RULES

(1) All guest tracks which are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under either a thoroughbred or quarter horse permit shall be entitled to payment of 7 percent of the total contributions to the pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on greyhound races or jai alai games from a host track other than a thoroughbred or harness permitholder shall be entitled to payments of not less than 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under a harness horse permit shall be entitled to a payment of 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. However, if a guest track is a horserace permitholder that accepts intertrack wagers during its current race meet, one-half of the payment provided in this subsection and s. 550.6345 shall be paid as purses during its current race meet.

(a) However, if the host track is a thoroughbred permitholder, and the guest track is also a thoroughbred permitholder and accepts intertrack wagers on thoroughbred races during its current race meet, one-third of the payment provided in this subsection shall be paid as purses during its current race meet. In addition, an amount equal to 2 percent of the intertrack handle at the thoroughbred guest track shall be remitted by the host track to the guest thoroughbred track, which amount shall be deducted from the purses required to be paid by the host track. Such amount shall be paid by the guest thoroughbred track as purses during its current race meet.

(b) If thoroughbred intertrack wagering is taken at any guest track, including a thoroughbred guest track, which is located within 25 miles of any thoroughbred permitholder that is not conducting live racing, the host track shall pay to such thoroughbred permitholder an amount equal to 2 percent of the intertrack handle at all such guest tracks, including the guest thoroughbred track, which amount shall be deducted from the purses otherwise required to be paid by the host track. This amount shall be used by the thoroughbred permitholder to pay purses during its next race meet.

(2) For the purposes of calculation of odds and payoffs and distribution of the pari-mutuel pools, all intertrack wagers shall be combined with the pari-mutuel pools at the host track.

(3) All forms of pari-mutuel wagering shall be allowed on all wagering authorized under s. 550.615 and this section.

(4) The takeout on all intertrack wagering shall be the same as the takeout on similar pari-mutuel pools conducted at the host track.

(5) The commission shall adopt rules providing an expedient accounting procedure for the transfer of the pari-mutuel pool in order to properly account for payment of state taxes, payment to the guest track, payment to the host track, payment of purses, payment to breeders' associations, payment to horsemen's associations, and payment to the public.

(6) Each host track or guest track conducting intertrack wagering shall annually file an audit identifying the intertrack wagering conducted, from wagering conducted live, which audit shall be in compliance with s. 550.125.

(7) No guest track shall make any payment to any patron on any pari-mutuel ticket purchased on any race broadcast until the stewards, judges, or panel of judges at the host track where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to the acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event.

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the out-of-state horse track, and breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b).

(b) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(a), the distribution of the net proceeds that are retained by a thoroughbred host track from the takeout on an out-of-state race rebroadcast under this subsection shall be as follows:

1. One-third of the remainder of such proceeds shall be paid to the guest track;
2. One-third of the remainder of such proceeds shall be retained by the host track; and
3. One-third of the remainder of such proceeds shall be paid by the host track as purses at the host track.

(c) All guest tracks other than thoroughbred permitholders that are eligible to receive wagers on out-of-state horseraces rebroadcast from a host track racing under a thoroughbred horse permit shall be subject to the distribution of the net proceeds as specified in paragraph (a) unless the host and guest permitholders and the recognized horseman's group agree to a different distribution of their respective portions of the proceeds by contract.

(d) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state thoroughbred horse races from an in-state thoroughbred horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such thoroughbred horse racing permitholder located within the area specified in this paragraph is both conducting live races and accepting wagers on out-of-state horseraces. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

(e) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(b), the proceeds that are retained by a harness host facility from the takeout on a race broadcast under this subsection shall be distributed as follows:

1. Of the total intertrack handle on the broadcast, 1 percent shall be deducted from the proceeds and paid to the Florida Standardbred Breeders and Owners Association, Inc., to be used as set forth in s. 550.625(2)(b);
2. One-third of the remainder of such proceeds shall be paid to the guest facility;
3. One-third of the remainder of such proceeds shall be retained by the host facility; and
4. One-third of the remainder of said proceeds shall be paid by the host facility as purses at the host facility.
(f) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state harness horse races from an in-state harness horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such harness horse racing permitholder located within the area specified in this paragraph is conducting live races. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.
(g)1. Any thoroughbred permitholder which accepts wagers on a simulcast signal must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345.
2. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(6). Such guest permitholders are authorized to accept wagers on such simulcast signal, notwithstanding any other provision of this chapter to the contrary.
3. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in 1s. 550.615(9). Such guest permitholders are authorized to accept wagers on such simulcast signals for a number of performances not to exceed that which constitutes a full schedule of live races for a quarter horse permitholder pursuant to s. 550.002(10), notwithstanding any other provision of this chapter to the contrary, except that the restrictions provided in 1s. 550.615(9)(a) apply to wagers on such simulcast signals.
No thoroughbred permitholder shall be required to continue to rebroadcast a simulcast signal to any in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than $100. Subject to the provisions of s. 550.615(4), as a condition of receiving rebroadcasts of thoroughbred simulcast signals under this paragraph, a guest permitholder must accept intertrack wagers on all live races conducted by all then-operating thoroughbred permitholders.
(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and constitute the permitholder's property as defined in s. 812.012(4). Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the written consent of the permitholder constitutes a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder has the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.
(11) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders in this section conflict with any provision of any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, and immunities granted under this section prevail over such conflicting provision.
History.—s. 49, ch. 92-348; s. 17, ch. 96-364; s. 10, ch. 98-190; s. 20, ch. 2000-354; s. 27, ch. 2001-63; s. 85, ch. 2002-1; s. 14, ch. 2002-2; s. 101, ch. 2019-167; s. 28, ch. 2021-271; s. 43, ch. 2022-7.
1Note.—Repealed by s. 44, ch. 2000-354.

550.6308 LIMITED INTERTRACK WAGERING LICENSE

In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.
(1) Upon application to the commission on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01 and that has conducted at least 8 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years before such application shall be issued a license, subject to the conditions set forth in this section, to conduct intertrack wagering at such a permanent sales facility. No more than one such license may be issued, and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.
(2) If more than one application is submitted for such license, the commission shall determine which applicant shall be granted the license. In making its determination, the commission shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.
(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.
(4) The licensee shall be considered a guest track under this chapter.
History.—s. 11, ch. 98-190; s. 4, ch. 98-217; s. 28, ch. 2000-354; s. 29, ch. 2021-271; s. 44, ch. 2022-7.

550.6315 APPLICABILITY OF S. 565.02(5) TO GUEST TRACKS

The provisions of s. 565.02(5) apply to any guest track.
History.—s. 50, ch. 92-348.

550.6325 UNCASHED TICKETS AND BREAKAGE TAX

Uncashed tickets and breakage tax on intertrack wagers shall be retained by the permitholder conducting the live racing or games.
History.—s. 51, ch. 92-348.

550.6335 SURCHARGE

(1) Any guest track that accepts intertrack wagers may collect and retain a surcharge on any intertrack pool in an amount not to exceed 3 percent of each winning pari-mutuel ticket cashed.
(2) A thoroughbred horse permitholder that accepts wagers on out-of-state races may impose a surcharge on each winning ticket, or interstate pool, on such out-of-state race in an amount not to exceed 5 percent of each winning pari-mutuel winning ticket cashed. If a permitholder rebroadcasts such signal and elects to impose a surcharge, the surcharge shall be imposed on any winning ticket at any guest facility at the same rate as the surcharge on wagers accepted at its own facility. The proceeds from the surcharge shall be distributed as follows: if the wager is made at the host facility, then one-half of

the proceeds shall be retained by the host permitholder and one-half shall be paid as purses at the host facility; if the wager is made at a guest facility, then one-half shall be retained by the guest permitholder, one-quarter shall be paid to the host permitholder, and one-quarter shall be paid as purses at the host facility.
Any surcharge taken under this section must be calculated after breakage is deducted from the wagering pool.
History.—s. 52, ch. 92-348; s. 18, ch. 96-364.

550.6345 INTERTRACK WAGERING; PURSES WHEN HOST TRACK IS HARNESS RACETRACK

A harness race permitholder host track may pay any guest track that receives broadcasts and accepts wagers on races from the host track an additional percentage of the total contribution to the pari-mutuel pool on wagers accepted at that guest track as a supplement to the payment authorized in s. 550.6305. A harness race permitholder host track that supplements payments to a guest track may reduce the account available for payment of purses during its current race meet by 50 percent of the supplemental amount paid to the guest track, but the total reduction may not exceed an amount which is more than 1 percent of the intertrack wagers placed on races that are part of the regular ontrack program of the host track during its current race meet pursuant to s. 550.615.
History.—s. 53, ch. 92-348.

550.70 JAI ALAI GENERAL PROVISIONS; CHIEF COURT JUDGES REQUIRED; EXTENSION OF TIME TO CONSTRUCT FRONTON; AMATEUR JAI ALAI CONTESTS PERMITTED UNDER CERTAIN CONDITIONS; PLAYING DAYS' LIMITATIONS; LOCKING OF PARI-MUTUEL MACHINES

(1) A chief court judge must be present for each jai alai game at which pari-mutuel wagering is authorized. Chief court judges must be able to demonstrate extensive knowledge of the rules and game of jai alai and be able to meet the physical requirements of the position. The decisions of a chief court judge are final as to any incident relating to the playing of a jai alai game.
(2) The time within which the holder of a ratified permit for jai alai or pelota has to construct and complete a fronton may be extended by the commission for a period of 24 months after the date of the issuance of the permit, anything to the contrary in any statute notwithstanding.
(3) This chapter does not prohibit any fronton, jai alai plant, or facility from being used to conduct amateur jai alai or pelota contests or games during each fronton season by any charitable, civic, or nonprofit organization for the purpose of conducting jai alai contests or games if only players other than those usually used in jai alai contests or games are permitted to play and if adults and minors may participate as players or spectators. However, during such jai alai games or contests, betting and gambling and the sale or use of alcoholic beverages are prohibited.
(4) A jai alai player shall not be required to perform on more than 6 consecutive calendar days.
(5) The provisions of s. 550.155(1) allow wagering on points during a game; however, the pari-mutuel machines must be locked upon the start of the serving motion of each serve for wagers on that game.
History.—s. 55, ch. 92-348; s. 1, ch. 95-396; s. 19, ch. 96-364; s. 45, ch. 2022-7.

550.71 OPERATION OF CH. 96-364

If the provisions of any section of this act are held to be invalid or inoperative for any reason, the remaining provisions of this act shall be deemed to be void and of no effect, it being the legislative intent that this act as a whole would not have been adopted had any provision of the act not been included.
History.—s. 25, ch. 96-364.

550.901 INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN PARI-MUTUEL WAGERING

There is created the Interstate Compact on Licensure of Participants in Pari-mutuel Wagering.
History.—s. 31, ch. 2000-354.

550.902 PURPOSES

The purposes of this compact are to:
(1) Establish uniform requirements among the party states for the licensing of participants with pari-mutuel wagering, and ensure that all licensed participants meet a uniform minimum standard of honesty and integrity.
(2) Facilitate the growth of the pari-mutuel wagering industry in each party state and nationwide by simplifying the process for licensing participants in pari-mutuel wagering, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts pari-mutuel wagering.
(3) Authorize the Florida Gaming Control Commission to participate in this compact.
(4) Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by this compact, to enter into contracts with governmental agencies and nongovernmental persons to carry out the purposes of this compact.
(5) Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law enforcement agencies.
History.—s. 32, ch. 2000-354; s. 46, ch. 2022-7.

550.903 DEFINITIONS; INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN PARI-MUTUEL WAGERING

As used in this compact, the term:
(1) "Compact committee" means the organization of officials from the party states which is authorized and empowered to carry out the purposes of this compact.
(2) "Official" means the appointed, elected, designated, or otherwise duly selected member of a racing commission, or the equivalent thereof, in a party state who represents that party state as a member of the compact committee.
(3) "Participants in pari-mutuel wagering" means participants in horseracing, greyhound racing, and jai alai games with pari-mutuel wagering in the party states.
(4) "Party state" means each state that has enacted this compact.
(5) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.
History.—s. 33, ch. 2000-354.

550.904 ENTRY INTO FORCE

This compact shall come into force when enacted by any four states. Thereafter, this compact shall become effective in any other state upon that state's enactment of this compact and upon the affirmative vote of a majority of the officials on the compact committee as provided in s. 550.909.
History.—s. 34, ch. 2000-354; s. 28, ch. 2001-63.

550.905 STATES ELIGIBLE TO JOIN COMPACT

Any state that has adopted or authorized pari-mutuel wagering shall be eligible to become a party to this compact.
History.—s. 35, ch. 2000-354.

550.906 WITHDRAWAL FROM COMPACT; IMPACT ON FORCE AND EFFECT

(1) Any party state may withdraw from this compact by enacting a statute repealing this compact, but such a withdrawal becomes effective only when the head of the executive branch of the withdrawing party state has given written notice of the withdrawal to the heads of the executive branch of all other party states.
(2) If, as a result of withdrawals, participation in this compact decreases to fewer than three party states, this compact shall no longer be in force and effect until participation in this compact increases to three or more party states.
History.—s. 36, ch. 2000-354.

550.907 COMPACT COMMITTEE

(1) There is created an interstate governmental entity to be known as the "compact committee," which shall be composed of one official from the racing commission, or the equivalent thereof, in each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the party state that she or he represents. The official from Florida shall be appointed by the Secretary of Business and Professional Regulation. Pursuant to the laws of her or his party state, each official shall have the assistance of her or his state's racing commission, or the equivalent thereof, in considering issues related to licensing of participants in pari-mutuel wagering and in fulfilling her or his responsibilities as the representative from her or his state to the compact committee.
(2) If an official is unable to perform any of her or his duties as a member of the compact committee, the racing commission, or the equivalent thereof, from her or his state shall designate another of its members as an alternate who shall serve in her or his place and represent the party state as its official on the compact committee, until that racing commission, or the equivalent thereof, determines that the original representative official is once again able to perform her or his duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the affected state's racing commission, or the equivalent thereof, to the compact committee as the committee's bylaws provide.
History.—s. 37, ch. 2000-354.

550.908 POWERS AND DUTIES OF COMPACT COMMITTEE

In order to carry out the purposes of this compact, the compact committee has the power and duty to:
(1)(a) Determine which categories of participants in pari-mutuel wagering, including, but not limited to, owners, trainers, jockeys, jai alai players, drivers, grooms, mutuel clerks, racing officials, veterinarians, and farriers, should be licensed by the committee, and to establish the requirements for the initial licensure of applicants in each category, the term of the license for each category, and the requirements for renewal of licenses in each category.
(b) With regard to requests for criminal history record information on each applicant for a license, and with regard to the effect of a criminal record on the issuance or renewal of a license, determine for each category of participants in pari-mutuel wagering which licensure requirements for that category are, in its judgment, the most restrictive licensure requirements of any party state for that category and to adopt licensure requirements for that category which are, in its judgment, comparable to those most restrictive requirements.
(2) Investigate applicants for licensure by the compact committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law enforcement agencies, and, where appropriate, from the Royal Canadian Mounted Police and law enforcement agencies of other countries, which is necessary to determine whether a license should be issued under the licensure requirements established by the committee under subsection (1). The fingerprints of each applicant for licensure by the compact committee shall be taken by the compact committee, its employees, or its designee, and, pursuant to Pub. L. No. 92-544 or Pub. L. No. 100-413, shall be forwarded to a state identification bureau or to the Association of Racing Commissioners International, Inc., for submission to the Federal Bureau of Investigation for a criminal history record check. Such fingerprints may be submitted by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law enforcement agency.
(3) Issue licenses to, and renew the licenses of, participants in pari-mutuel wagering who are found by the committee to have met the licensure and renewal requirements established by the committee under subsection (1). The compact committee shall not have the power or authority to deny a license. If the compact committee determines that an applicant is not eligible for the issuance or renewal of a compact committee license, the compact committee shall notify the applicant that her or his application will not be processed further. Such notification does not constitute and shall not be considered to be the denial of a license. Any such applicant shall have the right to present additional evidence to, and be heard by, the compact committee, but the final decision on issuance or renewal of the license shall be made by the compact committee using the requirements established under subsection (1).
(4) Enter into contracts or agreements with governmental agencies and nongovernmental persons to provide personal services for its activities and such other services as are necessary to effectuate the purposes of this compact.
(5) Create, appoint, and abolish those offices, employments, and positions, including that of executive director, that it considers necessary for the purposes of this compact; prescribe the powers, duties, and qualifications of, and hire persons to fill, such offices, employments, and positions; and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits, and other conditions of employment of persons filling such offices, employments, and positions.
(6) Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation, or other entity.
(7) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, or license, or in other similar manner, in furtherance of the purposes of this compact.
(8) Charge a fee to each applicant for an initial license or renewal of a license.
(9) Receive other funds through gifts, grants, and appropriations.
History.—s. 38, ch. 2000-354; s. 53, ch. 2013-116.

550.909 VOTING REQUIREMENTS

(1) Each member of the compact committee is entitled to one vote.
(2) All action taken by the compact committee with regard to the addition of party states, the licensure of participants in pari-mutuel wagering, and the receipt and disbursement of funds requires a majority vote of the members of the compact committee or their alternates. All other action by the compact committee requires a majority vote of the members present or their alternates.
(3) The compact committee may not take any action unless a quorum is present. A majority of the members of the compact committee or their alternates constitutes a quorum.
History.—s. 39, ch. 2000-354.

550.910 ADMINISTRATION AND MANAGEMENT

(1) The compact committee shall elect annually from among its members a chairperson, a vice chairperson, and a secretary/treasurer.
(2) The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the members of the committee or their alternates and may, by the same vote, amend and rescind these bylaws.

The compact committee shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto with the Secretary of State or equivalent agency of each of the party states.
(3) The compact committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and her or his support staff.
(4) Employees of the compact committee shall be considered governmental employees.
History.—s. 40, ch. 2000-354.

550.911 IMMUNITY FROM LIABILITY FOR PERFORMANCE OF OFFICIAL RESPONSIBILITIES AND DUTIES

A member or employee of the compact committee may not be held personally liable for any good faith act or omission that occurs during the performance and within the scope of her or his responsibilities and duties under this compact.
History.—s. 41, ch. 2000-354.

550.912 RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE

(1) By enacting this compact, each party state:
(a) Agrees to:
1. Accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in pari-mutuel wagering pursuant to the committee's licensure requirements.
2. Reimburse or otherwise pay the expenses of its official representative on the compact committee or her or his alternate.
(b) Agrees not to treat a notification to an applicant by the compact committee described in s. 550.908 as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.
(c) Reserves the right to:
1. Apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked. Any party state that suspends or revokes a compact committee license shall, through its racing commission or the equivalent thereof, or otherwise, promptly notify the compact committee of that suspension or revocation.
2. Apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in pari-mutuel wagering which the compact committee decides not to license and for individual participants in pari-mutuel wagering who do not meet the licensure requirements of the compact committee.
3. Establish its own licensure standards for those who are not covered by the compact committee license.
(2) A party state may not be held liable for the debts or other financial obligations incurred by the compact committee.
History.—s. 42, ch. 2000-354; s. 29, ch. 2001-63.

550.913 CONSTRUCTION AND SEVERABILITY

(1) This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or if the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.
(2) If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.
History.—s. 43, ch. 2000-354.

CHAPTER 551
SLOT MACHINES

551.101 SLOT MACHINE GAMING AUTHORIZED

Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess slot machines and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

History.—s. 1, ch. 2005-362; s. 129, ch. 2007-5.

551.102 DEFINITIONS

As used in this chapter, the term:

(1) "Commission" means the Florida Gaming Control Commission.

(2) "Designated slot machine gaming area" means the area or areas of a facility of a slot machine licensee in which slot machine gaming may be conducted in accordance with the provisions of this chapter.

(3) "Distributor" means any person who sells, leases, or offers or otherwise provides, distributes, or services any slot machine or associated equipment for use or play of slot machines in this state. A manufacturer may be a distributor within the state.

(4) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and meets the other requirements of this chapter.

(5) "Independent testing laboratory" means an independent laboratory:

(a) With demonstrated competence testing gaming machines and equipment;

(b) That is licensed by at least 10 other states; and

(c) That has not had its license suspended or revoked by any other state within the immediately preceding 10 years.

(6) "Manufacturer" means any person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise makes modifications to any slot machine or associated equipment for use or play of slot machines in this state for gaming purposes. A manufacturer may be a distributor within the state.

(7) "Nonredeemable credits" means slot machine operating credits that cannot be redeemed for cash or any other thing of value by a slot machine, kiosk, or the slot machine licensee and that are provided free of charge to patrons. Such credits do not constitute "nonredeemable credits" until such time as they are metered as credit into a slot machine and recorded in the facility-based monitoring system.

(8) "Progressive system" means a computerized system linking slot machines in one or more licensed facilities within this state or other jurisdictions and offering one or more common progressive payouts based on the amounts wagered.

(9) "Slot machine" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24) or an amusement game or machine as described in s. 546.10, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

(10) "Slot machine facility" means a facility at which slot machines as defined in this chapter are lawfully offered for play.

(11) "Slot machine license" means a license issued by the commission authorizing a pari-mutuel permitholder to place and operate slot machines as provided by s. 23, Art. X of the State Constitution, the provisions of this chapter, and commission rules.

(12) "Slot machine licensee" means a pari-mutuel permitholder who holds a license issued by the commission pursuant to this chapter that authorizes such person to possess a slot machine within facilities specified in s. 23, Art. X of the State Constitution and allows slot machine gaming.

(13) "Slot machine operator" means a person employed or contracted by the owner of a licensed facility to conduct slot machine gaming at that licensed facility.

(14) "Slot machine revenues" means the total of all cash and property, except nonredeemable credits, received by the slot machine licensee from the operation of slot machines less the amount of cash,

cash equivalents, credits, and prizes paid to winners of slot machine gaming.
History.—s. 1, ch. 2005-362; s. 1, ch. 2007-252; s. 19, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 2, ch. 2015-93; s. 4, ch. 2021-268; s. 47, ch. 2022-7.

551.103 POWERS AND DUTIES OF THE COMMISSION AND LAW ENFORCEMENT

(1) The commission shall adopt, pursuant to the provisions of ss. 120.536(1) and 120.54, all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this chapter. Such rules must include:
(a) Procedures for applying for a slot machine license and renewal of a slot machine license.
(b) Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license.
(c) Procedures to scientifically test and technically evaluate slot machines for compliance with this chapter. The commission may contract with an independent testing laboratory to conduct any necessary testing under this section. An independent testing laboratory shall not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the commission.
(d) Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter.
(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming that allow the commission and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee, as required by the commission or the Department of Law Enforcement, and provide the commission and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules adopted by the commission for the regulation and control of slot machines operated under this chapter. Such continuous and complete access, at any time on a real-time basis, shall include the ability of either the commission or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the facilities-based computer system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The commission shall notify the Department of Law Enforcement or the Department of Law Enforcement shall notify the commission, as appropriate, whenever there is a suspension of play under this paragraph. The commission and the Department of Law Enforcement shall exchange such information necessary for and cooperate in the investigation of the circumstances requiring suspension of play under this paragraph.
(f) Procedures for requiring each licensee at his or her own cost and expense to supply the commission with a bond having the penal sum of $2 million payable to the Governor and his or her successors in office for each year of the licensee's slot machine operations. Any bond shall be issued by a surety or sureties approved by the commission and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in his or her capacity as treasurer of the commission. The licensee shall be required to keep its books and records and make reports as provided in this chapter and to conduct its slot machine operations in conformity with this chapter and all other provisions of law. Such bond shall be separate and distinct from the bond required in s. 550.125.
(g) Procedures for requiring licensees to maintain specified records and submit any data, information, record, or report, including financial and income records, required by this chapter or determined by the commission to be necessary to the proper implementation and enforcement of this chapter.
(h) A requirement that the payout percentage of a slot machine be no less than 85 percent.
(i) Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.
(j) Procedures for requiring slot machine licensees to implement and establish drug-testing programs for all slot machine occupational licensees.
(2) The commission shall conduct such investigations necessary to fulfill its responsibilities under the provisions of this chapter.
(3) The Department of Law Enforcement and local law enforcement agencies shall have concurrent jurisdiction to investigate criminal violations of this chapter and may investigate any other criminal violation of law occurring at the facilities of a slot machine licensee, and such investigations may be conducted in conjunction with the appropriate state attorney.
(4)(a) The commission, the Department of Law Enforcement, and local law enforcement agencies shall have unrestricted access to the slot machine licensee's facility at all times and shall require of each slot machine licensee strict compliance with the laws of this state relating to the transaction of such business. The commission, the Department of Law Enforcement, and local law enforcement agencies may:
1. Inspect and examine premises where slot machines are offered for play.
2. Inspect slot machines and related equipment and supplies.
(b) In addition, the commission may:
1. Collect taxes, assessments, fees, and penalties.
2. Deny, revoke, suspend, or place conditions on the license of a person who violates any provision of this chapter or rule adopted pursuant thereto.
(5) The commission shall revoke or suspend the license of any person who is no longer qualified or who is found, after receiving a license, to have been unqualified at the time of application for the license.
(6) This section does not:
(a) Prohibit the Department of Law Enforcement or any law enforcement authority whose jurisdiction includes a licensed facility from conducting investigations of criminal activities occurring at the facility of the slot machine licensee;
(b) Restrict access to the slot machine licensee's facility by the Department of Law Enforcement or any local law enforcement authority whose jurisdiction includes the slot machine licensee's facility; or
(c) Restrict access by the Department of Law Enforcement or local law enforcement authorities to information and records necessary to the investigation of criminal activity that are contained within the slot machine licensee's facility.
History.—s. 1, ch. 2005-362; s. 2, ch. 2007-252; s. 5, ch. 2021-268; s. 48, ch. 2022-7.

551.104 LICENSE TO CONDUCT SLOT MACHINE GAMING

(1) Upon application and a finding by the commission after investigation that the application is complete and the applicant is qualified and payment of the initial license fee, the commission may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility. Once licensed, slot machine gaming may be conducted subject to the requirements of this chapter and rules adopted pursuant thereto.
(2) An application may be approved by the commission only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution.

(3) A slot machine license may be issued only to a licensed pari-mutuel permitholder, and slot machine gaming may be conducted only at the eligible facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(a) Continue to be in compliance with this chapter.

(b) Continue to be in compliance with chapter 550, where applicable, and maintain the pari-mutuel permit and license in good standing pursuant to the provisions of chapter 550. Notwithstanding any contrary provision of law and in order to expedite the operation of slot machines at eligible facilities, any eligible facility shall be entitled within 60 days after the effective date of this act to amend its 2006-2007 pari-mutuel wagering operating license issued by the commission under ss. 550.0115 and 550.01215. The commission shall issue a new license to the eligible facility to effectuate any approved change.

(c) If a thoroughbred permitholder, conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(10). A permitholder's responsibility to conduct live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the control of the permitholder.

(d) Upon approval of any changes relating to the pari-mutuel permit by the commission, be responsible for providing appropriate current and accurate documentation on a timely basis to the commission in order to continue the slot machine license in good standing. Changes in ownership or interest of a slot machine license of 5 percent or more of the stock or other evidence of ownership or equity in the slot machine license or any parent corporation or other business entity that in any way owns or controls the slot machine license shall be approved by the commission prior to such change, unless the owner is an existing holder of that license who was previously approved by the commission. Changes in ownership or interest of a slot machine license of less than 5 percent, unless such change results in a cumulative total of 5 percent or more, shall be reported to the commission within 20 days after the change. The commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest. No reporting is required if the person is holding 5 percent or less equity or securities of a corporate owner of the slot machine licensee that has its securities registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States. A change in ownership or interest of less than 5 percent which results in a cumulative ownership or interest of 5 percent or more shall be approved by the commission prior to such change unless the owner is an existing holder of the license who was previously approved by the commission.

(e) Allow the commission and the Department of Law Enforcement unrestricted access to and right of inspection of facilities of a slot machine licensee in which any activity relative to the conduct of slot machine gaming is conducted.

(f) Ensure that the facilities-based computer system that the licensee will use for operational and accounting functions of the slot machine facility is specifically structured to facilitate regulatory oversight. The facilities-based computer system shall be designed to provide the commission and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, the wagering patterns, payouts, tax collection, and such other operations as necessary to determine whether the facility is in compliance with statutory provisions and rules adopted by the commission for the regulation and control of slot machine gaming. The commission and the Department of Law Enforcement shall have complete and continuous access to this system. Such access shall include the ability of either the commission or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The computer system shall be reviewed and approved by the commission to ensure necessary access, security, and functionality. The commission may adopt rules to provide for the approval process.

(g) Ensure that each slot machine is protected from manipulation or tampering to affect the random probabilities of winning plays. The commission or the Department of Law Enforcement shall have the authority to suspend play upon reasonable suspicion of any manipulation or tampering. When play has been suspended on any slot machine, the commission or the Department of Law Enforcement may examine any slot machine to determine whether the machine has been tampered with or manipulated and whether the machine should be returned to operation.

(h) Submit a security plan, including the facilities' floor plan, the locations of security cameras, and a listing of all security equipment that is capable of observing and electronically recording activities being conducted in the facilities of the slot machine licensee. The security plan must meet the minimum security requirements as determined by the commission under s. 551.103(1)(i) and be implemented prior to operation of slot machine gaming. The slot machine licensee's facilities must adhere to the security plan at all times. Any changes to the security plan must be submitted by the licensee to the commission prior to implementation. The commission shall furnish copies of the security plan and changes in the plan to the Department of Law Enforcement.

(i) Create and file with the commission a written policy for:

1. Creating opportunities to purchase from vendors in this state, including minority vendors.
2. Creating opportunities for employment of residents of this state, including minority residents.
3. Ensuring opportunities for construction services from minority contractors.
4. Ensuring that opportunities for employment are offered on an equal, nondiscriminatory basis.
5. Training for employees on responsible gaming and working with a compulsive or addictive gambling prevention program to further its purposes as provided for in s. 551.118.
6. The implementation of a drug-testing program that includes, but is not limited to, requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug-free workplace.

The slot machine licensee shall use the Internet-based job-listing system of the Department of Economic Opportunity in advertising employment opportunities. Each slot machine licensee shall provide an annual report to the Florida Gaming Control Commission containing information indicating compliance with this paragraph in regard to minority persons.

(j) Ensure that the payout percentage of a slot machine gaming facility is at least 85 percent.

(5) A slot machine license is not transferable.

(6) A slot machine licensee shall keep and maintain permanent daily records of its slot machine operation and shall maintain such records for a period of not less than 5 years. These records must include all financial transactions and contain sufficient detail to determine compliance with the requirements of this chapter. All records shall be available for audit and inspection by the commission, the Department of Law Enforcement, or other law enforcement agencies during the licensee's regular business hours.

(7) A slot machine licensee shall file with the commission a monthly report containing the required records of such slot machine operation. The required reports shall be submitted on forms prescribed by the commission and shall be due at the same time as the monthly pari-

mutuel reports are due to the commission, and the reports shall be deemed public records once filed.

(8) A slot machine licensee shall file with the commission an audit of the receipt and distribution of all slot machine revenues provided by an independent certified public accountant verifying compliance with all financial and auditing provisions of this chapter and the associated rules adopted under this chapter. The audit must include verification of compliance with all statutes and rules regarding all required records of slot machine operations. Such audit shall be filed within 60 days after the completion of the permitholder's pari-mutuel meet.

(9) The commission may share any information with the Department of Law Enforcement, any other law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities, or any other state or federal law enforcement agency the commission or the Department of Law Enforcement deems appropriate. Any law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities may share any information obtained or developed by it with the commission.

(10)(a)1. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, no slot machine license or renewal thereof shall be issued to such an applicant unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses and awards shall be subject to the terms of chapter 550. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3).

2. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

(b) The commission shall suspend a slot machine license if one or more of the agreements required under paragraph (a) are terminated or otherwise cease to operate or if the commission determines that the licensee is materially failing to comply with the terms of such an agreement. Any such suspension shall take place in accordance with chapter 120.

(c)1. If an agreement required under paragraph (a) cannot be reached prior to the initial issuance of the slot machine license, either party may request arbitration or, in the case of a renewal, if an agreement required under paragraph (a) is not in place 120 days prior to the scheduled expiration date of the slot machine license, the applicant shall immediately ask the American Arbitration Association to furnish a list of 11 arbitrators, each of whom shall have at least 5 years of commercial arbitration experience and no financial interest in or prior relationship with any of the parties or their affiliated or related entities or principals. Each required party to the agreement shall select a single arbitrator from the list provided by the American Arbitration Association within 10 days of receipt, and the individuals so selected shall choose one additional arbitrator from the list within the next 10 days.

2. If an agreement required under paragraph (a) is not in place 60 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 60 days prior to the scheduled expiration date of the slot machine license, the matter shall be immediately submitted to mandatory binding arbitration to resolve the disagreement between the parties. The three arbitrators selected pursuant to subparagraph 1. shall constitute the panel that shall arbitrate the dispute between the parties pursuant to the American Arbitration Association Commercial Arbitration Rules and chapter 682.

3. At the conclusion of the proceedings, which shall be no later than 90 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 30 days prior to the scheduled expiration date of the slot machine license, the arbitration panel shall present to the parties a proposed agreement that the majority of the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The parties shall immediately enter into such agreement, which shall satisfy the requirements of paragraph (a) and permit issuance of the pending annual slot machine license or renewal. The agreement produced by the arbitration panel under this subparagraph shall be effective until the last day of the license or renewal period or until the parties enter into a different agreement. Each party shall pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree. If the agreement produced by the arbitration panel under this subparagraph remains in place 120 days prior to the scheduled issuance of the next annual license renewal, then the arbitration process established in this paragraph will begin again.

4. In the event that neither of the agreements required under subparagraph (a)1. or the agreement required under subparagraph (a)2. are in place by the deadlines established in this paragraph, arbitration regarding each agreement will proceed independently, with separate lists of arbitrators, arbitration panels, arbitration proceedings, and resulting agreements.

5. With respect to the agreements required under paragraph (a) governing the payment of purses, the arbitration and resulting agreement called for under this paragraph shall be limited to the payment of purses from slot machine revenues only.

(d) If any provision of this subsection or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subsection or chapter which can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

History.—s. 1, ch. 2005-362; s. 3, ch. 2007-252; s. 20, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 409, ch. 2011-142; s. 30, ch. 2021-271; s. 49, ch. 2022-7.

551.1045 TEMPORARY LICENSES

(1) Notwithstanding any provision of s. 120.60 to the contrary, the commission may issue a temporary occupational license upon the receipt of a complete application from the applicant and a determination that the applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense. The temporary occupational license remains valid until such time as the commission grants an occupational license or notifies the applicant of its intended decision to deny the applicant a license pursuant to the provisions of s. 120.60. The commission shall adopt rules to administer this subsection. However, not more than one temporary license may be issued for any person in any year.

(2) A temporary license issued under this section is nontransferable.

History.—s. 1, ch. 2005-362; s. 4, ch. 2007-252; s. 50, ch. 2022-7.

551.105 SLOT MACHINE LICENSE RENEWAL

(1) Slot machine licenses shall be effective for 1 year after issuance and shall be renewed annually. The application for renewal must contain all revisions to the information submitted in the prior year's application that are necessary to maintain such information as both accurate and current.
(2) The applicant for renewal shall attest that any information changes do not affect the applicant's qualifications for license renewal.
(3) Upon determination by the commission that the application for renewal is complete and qualifications have been met, including payment of the renewal fee, the slot machine license shall be renewed annually.
History.—s. 1, ch. 2005-362; s. 51, ch. 2022-7.

551.106 LICENSE FEE; TAX RATE; PENALTIES

(1) LICENSE FEE.—
(a) Upon submission of the initial application for a slot machine license and annually thereafter, on the anniversary date of the issuance of the initial license, the licensee must pay to the commission a nonrefundable license fee of $3 million for the succeeding 12 months of licensure. The licensee must pay the commission a nonrefundable license fee of $2 million for the succeeding 12 months of licensure. The license fee shall be deposited into the Pari-mutuel Wagering Trust Fund to be used by the commission and the Department of Law Enforcement for investigations, regulation of slot machine gaming, and enforcement of slot machine gaming provisions under this chapter. These payments shall be accounted for separately from taxes or fees paid pursuant to the provisions of chapter 550.
(b) Before January 1, 2026, the commission shall evaluate the license fee and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives regarding the optimum level of slot machine license fees in order to adequately support the slot machine regulatory program.
(2) TAX ON SLOT MACHINE REVENUES.—
(a) The tax rate on slot machine revenues at each facility shall be 35 percent. If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade Counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year. Each licensee's pro rata share shall be an amount determined by dividing the number 1 by the number of facilities licensed to operate slot machines during the applicable fiscal year, regardless of whether the facility is operating such machines.
(b) The slot machine revenue tax imposed by this section shall be paid to the commission for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer by the Chief Financial Officer for deposit into the Educational Enhancement Trust Fund of the Department of Education. Any interest earnings on the tax revenues shall also be transferred to the Educational Enhancement Trust Fund.
(c)1. Funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall be used to supplement public education funding statewide.
2. If necessary to comply with any covenant established pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3), funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall first be available to pay debt service on lottery bonds issued to fund school construction in the event lottery revenues are insufficient for such purpose or to satisfy debt service reserve requirements established in connection with lottery bonds. Moneys available pursuant to this subparagraph are subject to annual appropriation by the Legislature.
(3) PAYMENT AND DISPOSITION OF TAXES.—Payment for the tax on slot machine revenues imposed by this section shall be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. The slot machine licensee shall remit to the commission payment for the tax on slot machine revenues. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, the slot machine licensee shall remit to the commission payment for the tax on slot machine revenues by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. The slot machine licensee shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing all slot machine gaming activities for the preceding calendar month and such other information as may be prescribed by the commission.
(4) TO PAY TAX; PENALTIES.—A slot machine licensee who fails to make tax payments as required under this section is subject to an administrative penalty of up to $10,000 for each day the tax payment is not remitted. All administrative penalties imposed and collected shall be deposited into the Pari-mutuel Wagering Trust Fund. If any slot machine licensee fails to pay penalties imposed by order of the commission under this subsection, the commission may suspend, revoke, or refuse to renew the license of the slot machine licensee.
(5) SUBMISSION OF FUNDS.—The commission may require slot machine licensees to remit taxes, fees, fines, and assessments by electronic funds transfer.
History.—s. 1, ch. 2005-362; s. 1, ch. 2006-27; s. 1, ch. 2007-59; s. 5, ch. 2007-252; s. 21, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 52, ch. 2022-7; s. 6, ch. 2022-179.

551.107 SLOT MACHINE OCCUPATIONAL LICENSE; FINDINGS; APPLICATION; FEE

(1) The Legislature finds that individuals and entities that are licensed under this section require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a criminal history record check.
(2)(a) The following slot machine occupational licenses shall be issued to persons or entities that, by virtue of the positions they hold, might be granted access to slot machine gaming areas or to any other person or entity in one of the following categories:
1. General occupational licenses for general employees, including food service, maintenance, and other similar service and support employees having access to the slot machine gaming area.
2. Professional occupational licenses for any person, proprietorship, partnership, corporation, or other entity that is authorized by a slot machine licensee to manage, oversee, or otherwise control daily operations as a slot machine manager, a floor supervisor, security personnel, or any other similar position of oversight of gaming operations, or any person who is not an employee of the slot machine licensee and who provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment.
3. Business occupational licenses for any slot machine management company or company associated with slot machine gaming, any person who manufactures, distributes, or sells slot machines, slot machine paraphernalia, or other associated equipment to slot machine licensees, or any company that sells or provides goods or services associated with slot machine gaming to slot machine licensees.
(b) The commission may issue one license to combine licenses under this section with pari-mutuel occupational licenses and cardroom licenses pursuant to s. 550.105(2)(b). The commission shall adopt rules pertaining to occupational licenses under this subsection. Such rules

may specify, but need not be limited to, requirements and restrictions for licensed occupations and categories, procedures to apply for any license or combination of licenses, disqualifying criminal offenses for a licensed occupation or categories of occupations, and which types of occupational licenses may be combined into a single license under this section. The fingerprinting requirements of subsection (7) apply to any combination license that includes slot machine license privileges under this section. The commission may not adopt a rule allowing the issuance of an occupational license to any person who does not meet the minimum background qualifications under this section.

(c) Slot machine occupational licenses are not transferable.

(3) A slot machine licensee may not employ or otherwise allow a person to work at a licensed facility unless such person holds the appropriate valid occupational license. A slot machine licensee may not contract or otherwise do business with a business required to hold a slot machine occupational license unless the business holds such a license. A slot machine licensee may not employ or otherwise allow a person to work in a supervisory or management professional level at a licensed facility unless such person holds a valid slot machine occupational license. All slot machine occupational licensees, while present in slot machine gaming areas, shall display on their persons their occupational license identification cards.

(4)(a) A person seeking a slot machine occupational license or renewal thereof shall make application on forms prescribed by the commission and include payment of the appropriate application fee. Initial and renewal applications for slot machine occupational licenses must contain all information that the commission, by rule, determines is required to ensure eligibility.

(b) A slot machine license or combination license is valid for the same term as a pari-mutuel occupational license issued pursuant to s. 550.105(1).

(c) Pursuant to rules adopted by the commission, any person may apply for and, if qualified, be issued a slot machine occupational license valid for a period of 3 years upon payment of the full occupational license fee for each of the 3 years for which the license is issued. The slot machine occupational license is valid during its specified term at any licensed facility where slot machine gaming is authorized to be conducted.

(d) The slot machine occupational license fee for initial application and annual renewal shall be determined by rule of the commission but may not exceed $50 for a general or professional occupational license for an employee of the slot machine licensee or $1,000 for a business occupational license for nonemployees of the licensee providing goods or services to the slot machine licensee. License fees for general occupational licensees shall be paid by the slot machine licensee. Failure to pay the required fee constitutes grounds for disciplinary action by the commission against the slot machine licensee, but it is not a violation of this chapter or rules of the commission by the general occupational licensee and does not prohibit the initial issuance or the renewal of the general occupational license.

(5) The commission may:

(a) Deny an application for, or revoke, suspend, or place conditions or restrictions on, a license of a person or entity that has been refused a license by any other state gaming commission, governmental department, agency, or other authority exercising regulatory jurisdiction over the gaming of another state or jurisdiction; or

(b) Deny an application for, or suspend or place conditions on, a license of any person or entity that is under suspension or has unpaid fines in another state or jurisdiction.

(6)(a) The commission may deny, suspend, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has violated the provisions of this chapter or the rules of the commission governing the conduct of persons connected with slot machine gaming. In addition, the commission may deny, suspend, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state that would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; racketeering; or a crime involving a lack of good moral character, or has had a gaming license revoked by this state or any other jurisdiction for any gaming-related offense.

(b) The commission may deny, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States if such felony or misdemeanor is related to gambling or bookmaking as described in s. 849.25.

(c) For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(7) Fingerprints for all slot machine occupational license applications shall be taken in a manner approved by the commission and shall be submitted electronically to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for national processing for a criminal history record check. All persons as specified in s. 550.1815(1)(a) employed by or working within a licensed premises shall submit fingerprints for a criminal history record check and may not have been convicted of any disqualifying criminal offenses specified in subsection (6). Commission employees and law enforcement officers assigned by their employing agencies to work within the premises as part of their official duties are excluded from the criminal history record check requirements under this subsection. For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(a) Fingerprints shall be taken in a manner approved by the commission upon initial application, or as required thereafter by rule of the commission, and shall be submitted electronically to the Department of Law Enforcement for state processing. The Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The results of the criminal history record check shall be returned to the commission for purposes of screening. Licensees shall provide necessary equipment approved by the Department of Law Enforcement to facilitate such electronic submission. The commission requirements under this subsection shall be instituted in consultation with the Department of Law Enforcement.

(b) The cost of processing fingerprints and conducting a criminal history record check for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the commission for the fingerprints submitted each month.

(c) All fingerprints submitted to the Department of Law Enforcement and required by this section shall be retained by the Department of Law Enforcement and entered into the statewide automated biometric identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprints entered into the statewide automated biometric identification system pursuant to s. 943.051.

(d) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (c). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the commission. Each licensed facility shall pay a fee to the commission for the cost of retention of the fingerprints and the ongoing searches

under this paragraph. The commission shall forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The commission shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (c).

(e) The commission shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check every 3 years following issuance of a license. If the fingerprints of a person who is licensed have not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided for in paragraph (a). The commission shall collect the fees for the cost of the national criminal history record check under this paragraph and shall forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may invoice the commission for the fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the commission within 48 hours if he or she is convicted of or has entered a plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

(8) All moneys collected pursuant to this section shall be deposited into the Pari-mutuel Wagering Trust Fund.

(9) The commission may deny, revoke, or suspend any occupational license if the applicant or holder of the license accumulates unpaid obligations, defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause.

(10) The commission may fine or suspend, revoke, or place conditions upon the license of any licensee who provides false information under oath regarding an application for a license or an investigation by the commission.

(11) The commission may impose a civil fine of up to $5,000 for each violation of this chapter or the rules of the commission in addition to or in lieu of any other penalty provided for in this section. The commission may adopt a penalty schedule for violations of this chapter or any rule adopted pursuant to this chapter for which it would impose a fine in lieu of a suspension and adopt rules allowing for the issuance of citations, including procedures to address such citations, to persons who violate such rules. In addition to any other penalty provided by law, the commission may exclude from all licensed slot machine facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been declared ineligible to hold an occupational license or whose occupational license has been suspended or revoked by the commission.

History.—s. 1, ch. 2005-362; s. 6, ch. 2007-252; s. 54, ch. 2013-116; s. 53, ch. 2022-7.

551.108 PROHIBITED RELATIONSHIPS

(1) A person employed by or performing any function on behalf of the commission may not:

(a) Be an officer, director, owner, or employee of any person or entity licensed by the commission.

(b) Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any person licensed by the commission.

(2) A manufacturer or distributor of slot machines may not enter into any contract with a slot machine licensee that provides for any revenue sharing of any kind or nature that is directly or indirectly calculated on the basis of a percentage of slot machine revenues. Any maneuver, shift, or device whereby this subsection is violated is a violation of this chapter and renders any such agreement void.

(3) A manufacturer or distributor of slot machines or any equipment necessary for the operation of slot machines or an officer, director, or employee of any such manufacturer or distributor may not have any ownership or financial interest in a slot machine license or in any business owned by the slot machine licensee.

(4) An employee of the commission or relative living in the same household as such employee of the commission may not wager at any time on a slot machine located at a facility licensed by the commission.

(5) An occupational licensee or relative living in the same household as such occupational licensee may not wager at any time on a slot machine located at a facility where that person is employed.

History.—s. 1, ch. 2005-362; s. 54, ch. 2022-7.

551.109 PROHIBITED ACTS; PENALTIES

(1) Except as otherwise provided by law and in addition to any other penalty, any person who knowingly makes or causes to be made, or aids, assists, or procures another to make, a false statement in any report, disclosure, application, or any other document required under this chapter or any rule adopted under this chapter is subject to an administrative fine or civil penalty of up to $10,000.

(2) Except as otherwise provided by law and in addition to any other penalty, any person who possesses a slot machine without the license required by this chapter or who possesses a slot machine at any location other than at the slot machine licensee's facility is subject to an administrative fine or civil penalty of up to $10,000 per machine. The prohibition in this subsection does not apply to:

(a) Slot machine manufacturers or slot machine distributors that hold appropriate licenses issued by the commission who are authorized to maintain a slot machine storage and maintenance facility at any location in a county in which slot machine gaming is authorized by this chapter. The commission may adopt rules regarding security and access to the storage facility and inspections by the commission.

(b) Certified educational facilities that are authorized to maintain slot machines for the sole purpose of education and licensure, if any, of slot machine technicians, inspectors, or investigators. The commission and the Department of Law Enforcement may possess slot machines for training and testing purposes. The commission may adopt rules regarding the regulation of any such slot machines used for educational, training, or testing purposes.

(3) Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who manipulates or attempts to manipulate the outcome, payoff, or operation of a slot machine by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Theft of any slot machine proceeds or of property belonging to the slot machine operator or licensed facility by an employee of the operator or facility or by an employee of a person, firm, or entity that has contracted to provide services to the operator or facility constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a) Any law enforcement officer or slot machine operator who has probable cause to believe that a violation of subsection (3), subsection (4), or subsection (5) has been committed by a person and that the

officer or operator can recover the lost proceeds from such activity by taking the person into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the person into custody on the premises and detain the person in a reasonable manner and for a reasonable period of time. If the operator takes the person into custody, a law enforcement officer shall be called to the scene immediately. The taking into custody and detention by a law enforcement officer or slot machine operator, if done in compliance with this subsection, does not render such law enforcement officer, or the officer's agency, or the slot machine operator criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(b) Any law enforcement officer may arrest, either on or off the premises and without warrant, any person if there is probable cause to believe that person has violated subsection (3), subsection (4), or subsection (5).

(c) Any person who resists the reasonable effort of a law enforcement officer or slot machine operator to recover the lost slot machine proceeds that the law enforcement officer or slot machine operator had probable cause to believe had been stolen from the licensed facility and who is subsequently found to be guilty of violating subsection (3), subsection (4), or subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless such person did not know or did not have reason to know that the person seeking to recover the lost proceeds was a law enforcement officer or slot machine operator.

(7) All penalties imposed and collected under this section must be deposited into the Pari-mutuel Wagering Trust Fund.

History.—s. 1, ch. 2005-362; s. 7, ch. 2007-252; s. 55, ch. 2022-7.

551.111 LEGAL DEVICES

Notwithstanding any provision of law to the contrary, a slot machine manufactured, sold, distributed, possessed, or operated according to the provisions of this chapter is not unlawful.

History.—s. 1, ch. 2005-362.

551.112 EXCLUSIONS OF CERTAIN PERSONS

In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the commission may exclude any person from any facility of a slot machine licensee in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the commission. The commission may exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

History.—s. 1, ch. 2005-362; s. 56, ch. 2022-7.

551.113 PERSONS PROHIBITED FROM PLAYING SLOT MACHINES

(1) A person who has not attained 21 years of age may not play or operate a slot machine or have access to the designated slot machine gaming area of a facility of a slot machine licensee.

(2) A slot machine licensee or agent or employee of a slot machine licensee may not knowingly allow a person who has not attained 21 years of age:

(a) To play or operate any slot machine.

(b) To be employed in any position allowing or requiring access to the designated slot machine gaming area of a facility of a slot machine licensee.

(c) To have access to the designated slot machine gaming area of a facility of a slot machine licensee.

(3) The licensed facility shall post clear and conspicuous signage within the designated slot machine gaming areas that states the following:

THE PLAYING OF SLOT MACHINES BY PERSONS UNDER THE AGE OF 21 IS AGAINST FLORIDA LAW (SECTION 551.113, FLORIDA STATUTES). PROOF OF AGE MAY BE REQUIRED AT ANY TIME.

History.—s. 1, ch. 2005-362.

551.114 SLOT MACHINE GAMING AREAS

(1) A slot machine licensee may make available for play up to 2,000 slot machines within the property of the facilities of the slot machine licensee.

(2) The slot machine licensee shall display pari-mutuel races or games within the designated slot machine gaming areas and offer patrons within the designated slot machine gaming areas the ability to engage in pari-mutuel wagering on live, intertrack, and simulcast races conducted or offered to patrons of the licensed facility.

(3) The commission shall require the posting of signs warning of the risks and dangers of gambling, showing the odds of winning, and informing patrons of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

(4) Designated slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for fiscal year 2020-2021.

(5) The permitholder shall provide adequate office space at no cost to the commission and the Department of Law Enforcement for the oversight of slot machine operations. The commission shall adopt rules establishing the criteria for adequate space, configuration, and location and needed electronic and technological requirements for office space required by this subsection.

History.—s. 1, ch. 2005-362; s. 8, ch. 2007-252; s. 31, ch. 2021-271; s. 57, ch. 2022-7.

551.116 DAYS AND HOURS OF OPERATION

Slot machine gaming areas may be open 24 hours per day throughout the year.

History.—s. 1, ch. 2005-362; s. 9, ch. 2007-252; s. 32, ch. 2021-271.

551.117 PENALTIES

The commission may revoke or suspend any slot machine license issued under this chapter upon the willful violation by the slot machine licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a slot machine license, the commission may impose a civil penalty against the slot machine licensee for a violation of this chapter or any rule adopted by the commission. Except as otherwise provided in this chapter, the penalty so imposed may not exceed $100,000 for each count or separate offense. All penalties imposed and collected must be deposited into the Pari-mutuel Wagering Trust Fund.

History.—s. 1, ch. 2005-362; s. 58, ch. 2022-7.

551.118 COMPULSIVE OR ADDICTIVE GAMBLING PREVENTION PROGRAM

(1) The slot machine licensee shall offer training to employees on responsible gaming and shall work with a compulsive or addictive gambling prevention program to recognize problem gaming situations and to implement responsible gaming programs and practices.

(2) The commission shall, subject to competitive bidding, contract for provision of services related to the prevention of compulsive and addictive gambling. The contract shall provide for an advertising program to encourage responsible gaming practices and to publicize a gambling telephone help line. Such advertisements must be made both

publicly and inside the designated slot machine gaming areas of the licensee's facilities. The terms of any contract for the provision of such services shall include accountability standards that must be met by any private provider. The failure of any private provider to meet any material terms of the contract, including the accountability standards, shall constitute a breach of contract or grounds for nonrenewal. The commission may consult with the Department of the Lottery in the development of the program and the development and analysis of any procurement for contractual services for the compulsive or addictive gambling prevention program.

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of $250,000 paid by the licensee to the commission.

History.—s. 1, ch. 2005-362; s. 59, ch. 2022-7.

551.119 CATERER'S LICENSE

A slot machine licensee is entitled to a caterer's license pursuant to s. 565.02 on days on which the pari-mutuel facility is open to the public for slot machine game play as authorized by this chapter.

History.—s. 1, ch. 2005-362.

551.121 PROHIBITED ACTIVITIES AND DEVICES; EXCEPTIONS

(1) Complimentary or reduced-cost alcoholic beverages may not be served to persons playing a slot machine. Alcoholic beverages served to persons playing a slot machine shall cost at least the same amount as alcoholic beverages served to the general public at a bar within the facility.

(2) A slot machine licensee may not make any loan, provide credit, or advance cash in order to enable a person to play a slot machine. This subsection shall not prohibit automated ticket redemption machines that dispense cash resulting from the redemption of tickets from being located in the designated slot machine gaming area of the slot machine licensee.

(3) A slot machine licensee may not allow any automated teller machine or similar device designed to provide credit or dispense cash to be located within the designated slot machine gaming areas of a facility of a slot machine licensee.

(4)(a) A slot machine licensee may not accept or cash any check from any person within the designated slot machine gaming areas of a facility of a slot machine licensee.

(b) Except as provided in paragraph (c) for employees of the facility, a slot machine licensee or operator shall not accept or cash for any person within the property of the facility any government-issued check, third-party check, or payroll check made payable to an individual.

(c) Outside the designated slot machine gaming areas, a slot machine licensee or operator may accept or cash a check for an employee of the facility who is prohibited from wagering on a slot machine under s. 551.108(5), a check made directly payable to a person licensed by the commission, or a check made directly payable to the slot machine licensee or operator from:

1. A pari-mutuel patron; or
2. A pari-mutuel facility in this state or in another state.

(d) Unless accepting or cashing a check is prohibited by this subsection, nothing shall prohibit a slot machine licensee or operator from accepting and depositing in its accounts checks received in the normal course of business.

(5) A slot machine, or the computer operating system linking the slot machine, may be linked by any means to any other slot machine or computer operating system within the facility of a slot machine licensee. A progressive system may be used in conjunction with slot machines between licensed facilities in Florida or in other jurisdictions.

(6) A slot machine located within a licensed facility shall accept only tickets or paper currency or an electronic payment system for wagering and return or deliver payouts to the player in the form of tickets that may be exchanged for cash, merchandise, or other items of value. The use of coins, credit or debit cards, tokens, or similar objects is specifically prohibited. However, an electronic credit system may be used for receiving wagers and making payouts.

History.—s. 1, ch. 2005-362; s. 10, ch. 2007-252; s. 22, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 60, ch. 2022-7.

551.122 RULEMAKING

The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this chapter.

History.—s. 1, ch. 2005-362; s. 61, ch. 2022-7.

551.123 LEGISLATIVE AUTHORITY; ADMINISTRATION OF CHAPTER

The Legislature finds and declares that it has exclusive authority over the conduct of all wagering occurring at a slot machine facility in this state. As provided by law, only the Florida Gaming Control Commission and other authorized state agencies shall administer this chapter and regulate the slot machine gaming industry, including operation of slot machine facilities, games, slot machines, and facilities-based computer systems authorized in this chapter and the rules adopted by the commission.

History.—s. 4, ch. 2005-362; s. 62, ch. 2022-7.

CHAPTER 849
GAMBLING

849.01 KEEPING GAMBLING HOUSES, ETC.

Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 3764, 1887; RS 2644; GS 3572; RGS 5499; CGL 7657; s. 1059, ch. 71-136; s. 1355, ch. 97-102; s. 43, ch. 2019-167.

849.02 AGENTS OR EMPLOYEES OF KEEPER OF GAMBLING HOUSE

Whoever acts as servant, clerk, agent, or employee of any person in the violation of s. 849.01 shall be punished in the manner and to the extent therein mentioned.

History.—s. 2, ch. 3764, 1887; RS 2645; GS 3573; RGS 5500; CGL 7658; s. 116, ch. 2019-167.

849.03 RENTING HOUSE FOR GAMBLING PURPOSES

Whoever, whether as owner or agent, knowingly rents to another a house, room, booth, tent, shelter or place for the purpose of gaming shall be punished in the manner and to the extent mentioned in s. 849.01.

History.—s. 3, ch. 3764, 1887; RS 2646; GS 3574; RGS 5501; CGL 7659.

849.04 PERMITTING MINORS AND PERSONS UNDER GUARDIANSHIP TO GAMBLE

The proprietor, owner, or keeper of any E. O., keno or pool table, or billiard table, wheel of fortune, or other game of chance kept for the purpose of betting, who willfully and knowingly allows a minor or person who is mentally incompetent or under guardianship to play at such game or to bet on such game of chance; or whoever aids or abets or otherwise encourages such playing or betting of any money or other valuable thing upon the result of such game of chance by a minor or person who is mentally incompetent or under guardianship, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purpose of this section, the term "person who is mentally incompetent" means a person who because of mental illness, intellectual disability, senility, excessive use of drugs or alcohol, or other mental incapacity is incapable of managing his or her property or caring for himself or herself or both.

History.—s. 1, ch. 3145, 1879; RS 2647; s. 9, ch. 4322, 1895; GS 3575; RGS 5502; CGL 7660; s. 1060, ch. 71-136; s. 5, ch. 88-33; s. 1356, ch. 97-102; s. 24, ch. 2013-162.

849.05 PRIMA FACIE EVIDENCE

If any of the implements, devices or apparatus commonly used in games of chance in gambling houses or by gamblers, are found in any house, room, booth, shelter or other place it shall be prima facie evidence that the said house, room, booth, shelter or other place where the same are found is kept for the purpose of gambling.
History.—s. 4, ch. 3764, 1887; RS 2648; GS 3576; RGS 5503; CGL 7661; s. 243, ch. 77-104.

849.07 PERMITTING GAMBLING ON BILLIARD OR POOL TABLE BY HOLDER OF LICENSE

If any holder of a license to operate a billiard or pool table shall permit any person to play billiards or pool or any other game for money, or any other thing of value, upon such tables, she or he shall be deemed guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 14, ch. 6421, 1913; RGS 5505; CGL 7663; s. 1062, ch. 71-136; s. 1357, ch. 97-102.

849.08 GAMBLING

Whoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
History.—RS 2651; s. 1, ch. 4514, 1895; GS 3579; RGS 5508; CGL 7666; s. 1063, ch. 71-136.

849.085 CERTAIN PENNY-ANTE GAMES NOT CRIMES; RESTRICTIONS

(1) Notwithstanding any other provision of law, it is not a crime for a person to participate in a game described in this section if such game is conducted strictly in accordance with this section.
(2) As used in this section:
(a) "Penny-ante game" means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed $10 in value.
(b) "Dwelling" means residential premises owned or rented by a participant in a penny-ante game and occupied by such participant or the common elements or common areas of a condominium, cooperative, residential subdivision, or mobile home park of which a participant in a penny-ante game is a unit owner, or the facilities of an organization which is tax-exempt under s. 501(c)(7) of the Internal Revenue Code. The term "dwelling" also includes a college dormitory room or the common recreational area of a college dormitory or a publicly owned community center owned by a municipality or county.
(3) A penny-ante game is subject to the following restrictions:
(a) The game must be conducted in a dwelling.
(b) A person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.
(c) A person may not directly or indirectly charge admission or any other fee for participation in the game.
(d) A person may not solicit participants by means of advertising in any form, advertise the time or place of any penny-ante game, or advertise the fact that he or she will be a participant in any penny-ante game.
(e) A penny-ante game may not be conducted in which any participant is under 18 years of age.
(4) A debt created or owed as a consequence of any penny-ante game is not legally enforceable.
(5) The conduct of any penny-ante game within the common elements or common area of a condominium, cooperative, residential subdivision, or mobile home park or the conduct of any penny-ante game within the dwelling of an eligible organization as defined in subsection (2) or within a publicly owned community center owned by a municipality or county creates no civil liability for damages arising from the penny-ante game on the part of a condominium association, cooperative association, a homeowners' association as defined in s. 720.301, mobile home owners' association, dwelling owner, or municipality or county or on the part of a unit owner who was not a participant in the game.
History.—s. 1, ch. 89-366; s. 33, ch. 91-197; s. 1358, ch. 97-102; s. 12, ch. 99-382; ss. 58, 70, ch. 2000-258.

849.086 CARDROOMS AUTHORIZED

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.
(2) DEFINITIONS.—As used in this section:
(a) "Authorized game" means a game or series of games of poker or dominoes which are played in a nonbanking manner.
(b) "Banking game" means a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.
(c) "Cardroom" means a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.
(d) "Cardroom management company" means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.
(e) "Cardroom distributor" means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, dominoes, dominoes tables, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.
(f) "Cardroom operator" means a licensed pari-mutuel permitholder which holds a valid permit and license issued by the Florida Gaming Control Commission pursuant to chapter 550 and which also holds a valid cardroom license issued by the commission pursuant to this section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.
(g) "Commission" means the Florida Gaming Control Commission.
(h) "Dominoes" means a game of dominoes typically played with a set of 28 flat rectangular blocks, called "bones," which are marked on one side and divided into two equal parts, with zero to six dots, called "pips," in each part. The term also includes larger sets of blocks that contain a correspondingly higher number of pips. The term also means the set of blocks used to play the game.
(i) "Gross receipts" means the total amount of money received by a cardroom from any person for participation in authorized games.
(j) "House" means the cardroom operator and all employees of the cardroom operator.
(k) "Net proceeds" means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom

operators by this section, the annual cardroom license fees imposed by this section on each table operated at a cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(l) "Rake" means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(m) "Tournament" means a series of games that have more than one betting round involving one or more tables and where the winners or others receive a prize or cash award.

(3) CARDROOM AUTHORIZED.—Notwithstanding any other provision of law, it is not a crime for a person to participate in an authorized game at a licensed cardroom or to operate a cardroom described in this section if such game and cardroom operation are conducted strictly in accordance with the provisions of this section.

(4) AUTHORITY OF COMMISSION.—The commission shall administer this section and regulate the operation of cardrooms under this section and the rules adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(f) Monitor and ensure the proper collection of taxes and fees imposed by this section. Permitholder internal controls are mandated to ensure no compromise of state funds. To that end, a roaming commission auditor will monitor and verify the cash flow and accounting of cardroom revenue for any given operating day.

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license issued by the commission may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder, and an authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. An initial cardroom license shall be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of pari-mutuel activities on racing or games.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom.

(c) Notwithstanding any other provision of law, a pari-mutuel permitholder, other than a permitholder issued a permit pursuant to s. 550.3345, may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. In order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing. In order for a cardroom license to be renewed by a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.

(d) Persons seeking a license or a renewal thereof to operate a cardroom shall make application on forms prescribed by the commission. Applications for cardroom licenses shall contain all of the information the commission, by rule, may determine is required to ensure eligibility.

(e) The annual cardroom license fee for each facility shall be $1,000 for each table to be operated at the cardroom. The license fee shall be deposited by the commission with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.—

(a) A person employed or otherwise working in a cardroom as a cardroom manager, floor supervisor, pit boss, dealer, or any other activity related to cardroom operations while the facility is conducting card playing or games of dominoes must hold a valid cardroom employee occupational license issued by the commission. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check will not be required to have a cardroom employee occupational license.

(b) Any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the commission.

(c) No licensed cardroom operator may employ or allow to work in a cardroom any person unless such person holds a valid occupational license. No licensed cardroom operator may contract, or otherwise do business with, a business required to hold a valid cardroom business occupational license, unless the business holds such a valid license.

(d) The commission shall establish, by rule, a schedule for the renewal of cardroom occupational licenses. Cardroom occupational licenses are not transferable.

(e) Persons seeking cardroom occupational licenses, or renewal thereof, shall make application on forms prescribed by the commission. Applications for cardroom occupational licenses shall contain all of the information the commission, by rule, may determine is required to ensure eligibility.

(f) The commission shall adopt rules regarding cardroom occupational licenses. The provisions specified in s. 550.105(4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses.

(g) The commission may deny, declare ineligible, or revoke any cardroom occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state, or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency, racing or gaming commission or authority.

(h) Fingerprints for all cardroom occupational license applications shall be taken in a manner approved by the commission and then shall be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and at least every 5 years thereafter. The commission may by rule require an annual record check of all renewal applications for a cardroom occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The cardroom employee occupational license fee shall not exceed $50 for any 12-month period. The cardroom business occupational license fee shall not exceed $250 for any 12-month period.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may be operated only at the location specified on the cardroom license issued by the commission, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit or as otherwise authorized by law.

(b) Any cardroom operator may operate a cardroom at the pari-mutuel facility daily throughout the year, if the permitholder meets the requirements under paragraph (5)(b). The cardroom may be open 24 hours per day.

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally use a dealer are conducted at the cardroom. Such dealers may not have a participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee does not constitute the conducting of a banking game by the cardroom operator.

(d) A cardroom operator may award giveaways, jackpots, and prizes to a player who holds certain combinations of cards specified by the cardroom operator.

(e) Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) The cardroom facility is subject to inspection by the commission or any law enforcement agency during the licensee's regular business hours. The inspection must specifically include the permitholder internal control procedures approved by the commission.

(g) A cardroom operator may refuse entry to or refuse to allow any person who is objectionable, undesirable, or disruptive to play, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or age, except as provided in this section.

(h) Poker games played in a designated player manner in which one player is permitted, but not required, to cover other players' wagers must comply with the following restrictions:

1. Poker games to be played in a designated player manner must have been identified in cardroom license applications approved by the former Division of Pari-mutuel Wagering on or before March 15, 2018, or, if a substantially similar poker game, identified in cardroom license applications approved by the former Division of Pari-mutuel Wagering on or before April 1, 2021.

2. If the cardroom is located in a county where slot machine gaming is authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 10 tables for the play of poker games in a designated player manner.

3. If the cardroom is located in a county where slot machine gaming is not authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 30 tables for the play of poker games in a designated player manner.

4. There may not be more than nine players and the nonplayer dealer at each table.

(8) METHOD OF WAGERS; LIMITATION.—

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) The cardroom operator may limit the amount wagered in any game or series of games.

(c) A tournament shall consist of a series of games. The entry fee for a tournament may be set by the cardroom operator. Tournaments may be played only with tournament chips that are provided to all participants in exchange for an entry fee and any subsequent re-buys. All players must receive an equal number of tournament chips for their entry fee. Tournament chips have no cash value and represent tournament points only. There is no limitation on the number of tournament chips that may be used for a bet except as otherwise determined by the cardroom operator. Tournament chips may never be redeemed for cash or for any other thing of value. The distribution of prizes and cash awards must be determined by the cardroom operator before entry fees are accepted. For purposes of tournament play only, the term "gross receipts" means the total amount received by the cardroom operator for all entry fees, player re-buys, and fees for participating in the tournament less the total amount paid to the winners or others as prizes.

(9) BOND REQUIRED.—The holder of a cardroom license shall be financially and otherwise responsible for the operation of the cardroom and for the conduct of any manager, dealer, or other employee involved in the operation of the cardroom. Prior to the issuance of a cardroom license, each applicant for such license shall provide evidence of a surety bond in the amount of $50,000, payable to the state, furnished by a corporate surety authorized to do business in the state or evidence that the licensee's pari-mutuel bond required by s. 550.125 has been expanded to include the applicant's cardroom operation. The bond shall guarantee that the cardroom operator will redeem, for cash, all tokens or chips used in games. Such bond shall be kept in full force and effect by the operator during the term of the license.

(10) FEE FOR PARTICIPATION; PROHIBITIONS RELATING TO ECONOMIC INTEREST AND WINNINGS FOR CERTAIN GAMES.—

(a) The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an obvious manner and placed in a designated rake area which is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(b)1. A cardroom operator may not have any direct economic interest in a poker game played in a designated player manner, except for the rake.

2. A cardroom operator may not receive any portion of the winnings of a poker game played in a designated player manner.

(11) RECORDS AND REPORTS.—

(a) Each licensee operating a cardroom shall keep and maintain permanent daily records of its cardroom operation and shall maintain such records for a period of not less than 3 years. These records shall include all financial transactions and contain sufficient detail to determine compliance with the requirements of this section. All records shall be available for audit and inspection by the commission or other law enforcement agencies during the licensee's regular business hours. The information required in such records shall be determined by commission rule.

(b) Each licensee operating a cardroom shall file with the commission a report containing the required records of such cardroom operation. Such report shall be filed monthly by licensees. The required reports shall be submitted on forms prescribed by the commission and shall be due at the same time as the monthly pari-mutuel reports are due to the commission, and such reports shall contain any additional information deemed necessary by the commission, and the reports shall be deemed public records once filed.

(12) PROHIBITED ACTIVITIES.—

(a) No person licensed to operate a cardroom may conduct any banking game or any game not specifically authorized by this section or operate any game that violates the exclusivity provided in the gaming compact ratified, approved, and described in s. 285.710(3).

(b) No person under 18 years of age may be permitted to hold a cardroom or employee license, or engage in any game conducted therein.
(c) No electronic or mechanical devices, except mechanical card shufflers, may be used to conduct any authorized game in a cardroom.
(d) No cards, game components, or game implements may be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.
(13) TAXES AND OTHER PAYMENTS.—
(a) Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation's monthly gross receipts.
(b) An admission tax equal to 15 percent of the admission charge for entrance to the licensee's cardroom facility, or 10 cents, whichever is greater, is imposed on each person entering the cardroom. This admission tax shall apply only if a separate admission fee is charged for entry to the cardroom facility. If a single admission fee is charged which authorizes entry to both or either the pari-mutuel facility and the cardroom facility, the admission tax shall be payable only once and shall be payable pursuant to chapter 550. The cardroom licensee shall be responsible for collecting the admission tax. An admission tax is imposed on any free passes or complimentary cards issued to guests by licensees in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the licensee's cardroom facility. A cardroom licensee may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the cardroom, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other cardroom licensees for the use of their officers and officials. The licensee shall file with the commission a list of all persons to whom tax-free passes are issued.
(c) Payment of the admission tax and gross receipts tax imposed by this section shall be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, one-half being credited to the Pari-mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund. The cardroom licensee shall remit to the commission payment for the admission tax, the gross receipts tax, and the licensee fees. Such payments shall be remitted to the commission on the fifth day of each calendar month for taxes and fees imposed for the preceding month's cardroom activities. Licensees shall file a report under oath by the fifth day of each calendar month for all taxes remitted during the preceding calendar month. Such report shall, under oath, indicate the total of all admissions, the cardroom activities for the preceding calendar month, and such other information as may be prescribed by the commission.
(d)1. Each jai alai permitholder that conducts live performances and operates a cardroom facility shall use at least 4 percent of such permitholder's cardroom monthly gross receipts to supplement jai alai prize money during the permitholder's next ensuing pari-mutuel meet.
2. Each thoroughbred permitholder or harness horse racing permitholder that conducts live performances and operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.
3. No cardroom license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing and conducting live performances unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.
(e) The failure of any licensee to make payments as prescribed in paragraph (c) is a violation of this section, and the licensee may be subjected by the commission to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a licensee fails to pay penalties imposed by order of the commission under this subsection, the commission may suspend or revoke the license of the cardroom operator or deny issuance of any further license to the cardroom operator.
(f) The cardroom shall be deemed an accessory use to a licensed pari-mutuel operation and, except as provided in chapter 550, a municipality, county, or political subdivision may not assess or collect any additional license tax, sales tax, or excise tax on such cardroom operation.
1(g) All of the moneys deposited in the Pari-mutuel Wagering Trust Fund, except as set forth in paragraph (h), shall be utilized and distributed in the manner specified in s. 550.135(1). However, cardroom tax revenues shall be kept separate from pari-mutuel tax revenues and shall not be used for making the disbursement to counties provided in former s. 550.135(1).
(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by October 1 of each year, be distributed to the local government that approved the cardroom under subsection (16); however, if two or more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues under this paragraph. The commission shall, by September 1 of each year, determine the amount of taxes deposited into the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and the total amount to be distributed to each eligible county and municipality.
(14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—
(a) The commission may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.
(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the commission pursuant to chapter 550, the commission may, but is not required to, suspend or revoke such permitholder's cardroom license. If a cardroom operator's license is suspended or revoked pursuant to this section, the commission may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.
(c) Notwithstanding any other provision of this section, the commission may impose an administrative fine not to exceed $1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.
(15) CRIMINAL PENALTY; INJUNCTION.—
(a)1. Any person who operates a cardroom without a valid license issued as provided in this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2. Any licensee or permitholder who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection within a period of 3 years from the date of a prior conviction

for a violation of such paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) The commission, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.
(16) LOCAL GOVERNMENT APPROVAL.—
(a) The commission shall not issue any initial license under this section except upon proof in such form as the commission may prescribe that the local government where the applicant for such license desires to conduct cardroom gaming has voted to approve such activity by a majority vote of the governing body of the municipality or the governing body of the county if the facility is not located in a municipality.
(b) Notwithstanding any other provision of law, a municipality may prohibit the establishment of a cardroom on or after July 1, 2021, within its jurisdiction. This paragraph does not apply to a licensed pari-mutuel permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 in the municipality's jurisdiction or to a cardroom that was previously approved by the municipality.
(17) CHANGE OF LOCATION; REFERENDUM.—
(a) Notwithstanding any provisions of this section, no cardroom gaming license issued under this section shall be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of the cardroom except upon proof in such form as the commission may prescribe that a referendum election has been held:
1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on the question in such election voted in favor of the transfer of such license. However, the commission shall transfer, without requirement of a referendum election, the cardroom license of any permitholder that relocated its permit pursuant to s. 550.0555.
2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.
(b) The expense of each referendum held under the provisions of this subsection shall be borne by the licensee requesting the transfer.
History.—s. 20, ch. 96-364; s. 26, ch. 2001-64; s. 1913, ch. 2003-261; s. 4, ch. 2003-295; s. 4, ch. 2005-288; s. 1, ch. 2007-130; s. 1, ch. 2007-163; s. 24, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 6, ch. 2021-268; s. 34, ch. 2021-271; s. 66, ch. 2022-4; s. 65, ch. 2022-7; ss. 50, 51, 99, ch. 2022-157; s. 10, ch. 2022-179.
1Note.—
A. Section 51, ch. 2022-157, provides that "[t]he amendment to s. 849.086, Florida Statutes, made by this act expires July 1, 2023, and the text of that section shall revert to that in existence on June 30, 2022, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section."

B. Section 99, ch. 2022-157, provides that "[i]f any other act passed during the 2022 Regular Session of the Legislature contains a provision that is substantively the same as a provision in this act, but that removes or is otherwise not subject to the future repeal applied to such provision by this act, the Legislature intends that the provision in the other act takes precedence and continues to operate, notwithstanding the future repeal provided by this act." Section 10, ch. 2022-179, amended paragraph (13)(g) using language identical to the amendment to paragraph (13)(g) by s. 50, ch. 2022-157, and did not include a repeal provision.

849.09 LOTTERY PROHIBITED; EXCEPTIONS

(1) It is unlawful for any person in this state to:
(a) Set up, promote, or conduct any lottery for money or for anything of value;
(b) Dispose of any money or other property of any kind whatsoever by means of any lottery;
(c) Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise;
(d) Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing;
(e) Attempt to operate, conduct, or advertise any lottery scheme or device;
(f) Have in her or his possession any lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value;
(g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such ticket, coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;
(h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;
(i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery;
(j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings; or
(k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling. Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.
(2) Any person who is convicted of violating any of the provisions of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) Any person who is convicted of violating any of the provisions of paragraph (e), paragraph (f), paragraph (g), paragraph (i), or paragraph (k) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The provisions of this section do not apply to bingo as provided for in s. 849.0931.
(4) Any person who is convicted of violating any of the provisions of paragraph (h) or paragraph (j) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 4373, 1895; GS 3582; RGS 5509; CGL 7667; s. 1, ch. 26765, 1951; s. 1, ch. 67-72; s. 1, ch. 67-435; ss. 1, 2, ch. 69-91; s. 1064, ch. 71-136; s. 168, ch. 83-216; s. 4, ch. 91-206; ss. 4, 6, ch. 92-280; s. 1, ch. 93-160; s. 1359, ch. 97-102; s. 155, ch. 2007-5.

849.091 CHAIN LETTERS, PYRAMID CLUBS, ETC., DECLARED A LOTTERY; PROHIBITED; PENALTIES

(1) The organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues, or things of material value from other members, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of, or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A "pyramid sales scheme," which is any sales or marketing plan or operation whereby a person pays a consideration of any kind, or makes an investment of any kind, in excess of $100 and acquires the opportunity to receive a benefit or thing of value which is not primarily contingent on the volume or quantity of goods, services, or other property sold in bona fide sales to consumers, and which is related to the inducement of additional persons, by himself or herself or others, regardless of number, to participate in the same sales or marketing plan or operation, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, the term "consideration" and the term "investment" do not include the purchase of goods or services furnished at cost for use in making sales, but not for resale, or time and effort spent in the pursuit of sales or recruiting activities.

History.—s. 1, ch. 25096, 1949; s. 1065, ch. 71-136; s. 1, ch. 91-15; s. 215, ch. 91-224; s. 1360, ch. 97-102.

849.0915 REFERRAL SELLING

(1) Referral selling, whereby the seller gives or offers a rebate or discount to the buyer as an inducement for a sale in consideration of the buyer's providing the seller with the names of prospective purchasers, is declared to be a lottery if earning the rebate or discount is contingent upon the occurrence of an event subsequent to the time the buyer agrees to buy.

(2) Any person conducting a lottery by referral selling is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) In addition to the penalty provided herein, the Attorney General and her or his assistants, the state attorneys and their assistants, and the Division of Consumer Services of the Department of Agriculture and Consumer Services are authorized to apply to the circuit court within their respective jurisdictions, and such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating the provisions of this section, whether or not there exists an adequate remedy at law, and such injunction shall issue without bond.

History.—s. 1, ch. 72-110; s. 34, ch. 73-334; s. 1361, ch. 97-102.

849.092 MOTOR FUEL RETAIL BUSINESS; CERTAIN ACTIVITIES PERMITTED

The provisions of s. 849.09 shall not be construed to prohibit or prevent persons who are licensed to conduct business under s. 206.404, from giving away prizes to persons selected by lot, if such prizes are made on the following conditions:

(1) Such gifts are conducted as advertising and promotional undertakings, in good faith, solely for the purpose of advertising the goods, wares, merchandise and business of such licensee; and

(2) The principal business of such licensee is the business permitted to be licensed under s. 206.404; and

(3) No person to be eligible to receive such gift shall ever be required to:

(a) Pay any tangible consideration to such licensee in the form of money or other property or thing of value, or

(b) Purchase any goods, wares, merchandise or anything of value from such licensee.

(4) The person selected to receive any such gift or prize offered by any such licensee in connection with any such advertising or promotion is notified of his or her selection at his or her last known address. Newspapers, magazines, television and radio stations may, without violating any law, publish and broadcast advertising matter describing such advertising and promotional undertakings of such licensees which may contain instructions pursuant to which persons desiring to become eligible for such gifts or prizes may make their name and address known to such licensee.

(5) All brochures, advertisements, promotional material, and entry blanks promoting such undertakings shall contain a clause stating that residents of Florida are entitled to participate in such undertakings and are eligible to win gifts or prizes.

History.—s. 1, ch. 63-553; s. 1, ch. 65-261; s. 1, ch. 71-287; s. 244, ch. 77-104; s. 1362, ch. 97-102.

849.0931 BINGO AUTHORIZED; CONDITIONS FOR CONDUCT; PERMITTED USES OF PROCEEDS; LIMITATIONS

(1) As used in this section:

(a) "Bingo game" means and refers to the activity, commonly known as "bingo," in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

(b) "Bingo card" means and refers to the flat piece of paper or thin pasteboard employed by players engaged in the game of bingo. The bingo card shall have not fewer than 24 playing numbers printed on it. These playing numbers shall range from 1 through 75, inclusive. More than one set of bingo numbers may be printed on any single piece of paper.

(c) "Charitable, nonprofit, or veterans' organization" means an organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c) of the Internal Revenue Code of 1954 or s. 528 of the Internal Revenue Code of 1986, as amended; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

(d) "Deal" means a separate set or package of not more than 4,000 instant bingo tickets in which the predetermined minimum prize payout is at least 65 percent of the total receipts from the sale of the entire deal.

(e) "Flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information:
1. The game name.
2. The manufacturer's name or distinctive logo.
3. The form number.
4. The ticket count.
5. The prize structure, including the number of symbols or number combinations for winning instant bingo tickets by denomination, with their respective winning symbols or number combinations.
6. The cost per play.
7. The game serial number.
(f) "Instant bingo" means a form of bingo that is played at the same location as bingo, using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which have been designated in advance as prize winners.
(g) "Objects" means a set of 75 balls or other precision shapes that are imprinted with letters and numbers in such a way that numbers 1 through 15 are marked with the letter "B," numbers 16 through 30 are marked with the letter "I," numbers 31 through 45 are marked with the letter "N," numbers 46 through 60 are marked with the letter "G," and numbers 61 through 75 are marked with the letter "O."
(h) "Rack" means the container in which the objects are placed after being drawn and announced.
(i) "Receptacle" means the container from which the objects are drawn or ejected.
(j) "Session" means a designated set of games played in a day or part of a day.
(2)(a) None of the provisions of this chapter shall be construed to prohibit or prevent charitable, nonprofit, or veterans' organizations engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar endeavors, which organizations have been in existence and active for a period of 3 years or more, from conducting bingo games or instant bingo, provided the entire proceeds derived from the conduct of such games, less actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo or instant bingo, are donated by such organizations to the endeavors mentioned above. In no case may the net proceeds from the conduct of such games be used for any other purpose whatsoever. The proceeds derived from the conduct of bingo games or instant bingo shall not be considered solicitation of public donations.
(b) It is the express intent of the Legislature that no charitable, nonprofit, or veterans' organization serve as a sponsor of a bingo game or instant bingo conducted by another, but such organization may only be directly involved in the conduct of such a game as provided in this act.
(3) If an organization is not engaged in efforts of the type set out above, its right to conduct bingo games hereunder is conditioned upon the return of all the proceeds from such games to the players in the form of prizes. If at the conclusion of play on any day during which a bingo game is allowed to be played under this section there remain proceeds which have not been paid out as prizes, the organization conducting the game shall at the next scheduled day of play conduct bingo games without any charge to the players and shall continue to do so until the proceeds carried over from the previous days played have been exhausted. This provision in no way extends the limitation on the number of prize or jackpot games allowed in one day as provided for in subsection (5).
(4) The right of a condominium association, a cooperative association, a homeowners' association as defined in s. 720.301, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513 to conduct bingo is conditioned upon the return of the net proceeds from such games to players in the form of prizes after having deducted the actual business expenses for such games for articles designed for and essential to the operation, conduct, and playing of bingo. Any net proceeds remaining after paying prizes may be donated by the association to a charitable, nonprofit, or veterans' organization which is exempt from federal income tax under the provisions of s. 501(c) of the Internal Revenue Code to be used in such recipient organization's charitable, civic, community, benevolent, religious, or scholastic works or similar activities or, in the alternative, such remaining proceeds shall be used as specified in subsection (3).
(5) Except for instant bingo prizes, which are limited to the amounts displayed on the ticket or on the game flare, a jackpot shall not exceed the value of $250 in actual money or its equivalent, and there shall be no more than three jackpots in any one session of bingo.
(6) Except for instant bingo, which is not limited by this subsection, the number of days per week during which organizations authorized under this section may conduct bingo shall not exceed two.
(7) Except for instant bingo prizes, which are limited to the amounts displayed on the ticket or on the game flare, there shall be no more than three jackpots on any one day of play. All other game prizes shall not exceed $50.
(8) Each person involved in the conduct of any bingo game or instant bingo must be a resident of the community where the organization is located and a bona fide member of the organization sponsoring such game and may not be compensated in any way for operation of such game. When bingo games or instant bingo is conducted by a charitable, nonprofit, or veterans' organization, the organization conducting the games must designate up to three members of that organization to be in charge of the games, one of whom shall be present during the entire session at which the games are conducted. The organization conducting the games is responsible for posting a notice, which notice states the name of the organization and the designated member or members, in a conspicuous place on the premises at which the session is held or instant bingo is played. A caller in a bingo game may not be a participant in that bingo game.
(9) Every charitable, nonprofit, or veterans' organization involved in the conduct of a bingo game or instant bingo must be located in the county, or within a 15-mile radius of, where the bingo game or instant bingo is located.
(10)(a) No one under 18 years of age shall be allowed to play any bingo game or instant bingo or be involved in the conduct of a bingo game or instant bingo in any way.
(b) Any organization conducting bingo open to the public may refuse entry to any person who is objectionable or undesirable to the sponsoring organization, but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.
(11) Bingo games or instant bingo may be held only on the following premises:
(a) Property owned by the charitable, nonprofit, or veterans' organization.
(b) Property owned by the charitable, nonprofit, or veterans' organization that will benefit by the proceeds.
(c) Property leased for a period of not less than 1 year by a charitable, nonprofit, or veterans' organization, providing the lease or rental agreement does not provide for the payment of a percentage of the proceeds generated at such premises to the lessor or any other party and providing the rental rate for such premises does not exceed the rental rates charged for similar premises in the same locale.
(d) Property owned by a municipality or a county when the governing authority has, by appropriate ordinance or resolution, specifically authorized the use of such property for the conduct of such games.
(e) With respect to bingo games conducted by a condominium association, a cooperative association, a homeowners' association as defined in s. 720.301, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513, property owned by the association, property

owned by the residents of the mobile home park or recreational vehicle park, or property which is a common area located within the condominium, mobile home park, or recreational vehicle park.

(12) Each bingo game shall be conducted in accordance with the following rules:

(a) The objects, whether drawn or ejected, shall be essentially equal as to size, shape, weight, and balance and as to all other characteristics that may control their selection from the receptacle. The caller shall cancel any game if, during the course of a game, the mechanism used in the drawing or ejection of objects becomes jammed in such a manner as to interfere with the accurate determination of the next number to be announced or if the caller determines that more than one object is labeled with the same number or that there is a number to be drawn without a corresponding object. Any player in a game canceled pursuant to this paragraph shall be permitted to play the next game free of charge.

(b) Prior to commencement of any bingo session, the member in charge shall cause a verification to be made of all objects to be placed in the receptacle and shall inspect the objects in the presence of a disinterested person to ensure that all objects are present and that there are no duplications or omissions of numbers on the objects. Any player shall be entitled to call for a verification of numbers before, during, and after a session.

(c) The card or sheet on which the game is played shall be part of a deck, group, or series, no two of which may be alike in any given game.

(d) All numbers shall be visibly displayed after being drawn and before being placed in the rack.

(e) A bona fide bingo shall consist of a predesignated arrangement of numbers on a card or sheet that correspond with the numbers on the objects drawn from the receptacle and announced. Errors in numbers announced or misplaced in the rack may not be recognized as a bingo.

(f) When a caller has started to vocally announce a number, the caller shall complete the call. If any player has obtained a bingo on a previous number, such player will share the prize with the player who gained bingo on the last number called.

(g) Numbers on the winning cards or sheets shall be announced and verified in the presence of another player. Any player shall be entitled at the time the winner is determined to call for a verification of numbers drawn. The verification shall be in the presence of the member designated to be in charge of the occasion or, if such person is also the caller, in the presence of an officer of the licensee.

(h) Upon determining a winner, the caller shall ask, "Are there any other winners?" If no one replies, the caller shall declare the game closed. No other player is entitled to share the prize unless she or he has declared a bingo prior to this announcement.

(i) Seats may not be held or reserved by an organization or person involved in the conduct of any bingo game for players not present, nor may any cards be set aside, held, or reserved from one session to another for any player.

(13)(a) Instant bingo tickets must be sold at the price printed on the ticket or on the game flare by the manufacturer, not to exceed $1. Discounts may not be given for the purchase of multiple tickets, nor may tickets be given away free of charge.

(b) Each deal of instant bingo tickets must be accompanied by a flare, and the flare must be posted before the sale of any tickets in that deal.

(c) Each instant bingo ticket in a deal must bear the same serial number, and there may not be more than one serial number in each deal. Serial numbers printed on a deal of instant bingo tickets may not be repeated by the manufacturer on the same form for a period of 3 years.

(d) The serial number for each deal must be clearly and legibly placed on the outside of each deal's package, box, or other container.

(e) Instant bingo tickets manufactured, sold, or distributed in this state must comply with the applicable standards on pull-tabs of the North American Gaming Regulators Association, as amended.

(f) Except as provided under paragraph (e), an instant bingo ticket manufactured, sold, or distributed in this state must:

1. Be manufactured so that it is not possible to identify whether it is a winning or losing instant bingo ticket until it has been opened by the player as intended.
2. Be manufactured using at least a two-ply paper stock construction so that the instant bingo ticket is opaque.
3. Have the form number, the deal's serial number, and the name or logo of the manufacturer conspicuously printed on the face or cover of the instant bingo ticket.
4. Have a form of winner protection that allows the organization to verify, after the instant bingo ticket has been played, that the winning instant bingo ticket presented for payment is an authentic winning instant bingo ticket for the deal in play. The manufacturer shall provide a written description of the winner protection with each deal of instant bingo tickets.

(g) Each manufacturer and distributor that sells or distributes instant bingo tickets in this state to charitable, nonprofit, or veterans' organizations shall prepare an invoice that contains the following information:

1. Date of sale.
2. Form number and serial number of each deal sold.
3. Number of instant bingo tickets in each deal sold.
4. Name of distributor or organization to whom each deal is sold.
5. Price of each deal sold.

All information contained on an invoice must be maintained by the distributor or manufacturer for 3 years.

(h) The invoice, or a true and accurate copy thereof, must be on the premises where any deal of instant bingo tickets is stored or in play.

(14) Any organization or other person who willfully and knowingly violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For a second or subsequent offense, the organization or other person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—ss. 1, 6, ch. 92-280; s. 1, ch. 93-160; s. 1, ch. 94-326; s. 1363, ch. 97-102; s. 13, ch. 99-382; ss. 59, 70, ch. 2000-258; ss. 27, 28, ch. 2001-64; s. 2, ch. 2007-228.

849.0935 CHARITABLE, NONPROFIT ORGANIZATIONS; DRAWINGS BY CHANCE; REQUIRED DISCLOSURES; UNLAWFUL ACTS AND PRACTICES; PENALTIES

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

(a) "Drawing by chance," "drawing," or "raffle" means an enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The term "drawing" does not include those enterprises, commonly known as "game promotions," as defined by s. 849.094, "matching," "instant winner," or "preselected sweepstakes," which involve the distribution of winning numbers, previously designated as such, to the public.

(b) "Organization" means an organization which is exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19), and which has a current determination letter from the Internal Revenue Service, and its bona fide members or officers.

(2) Section 849.09 does not prohibit an organization from conducting drawings by chance pursuant to the authority granted by this section, if the organization has complied with all applicable provisions of chapter 496 and this section.

(3) All brochures, advertisements, notices, tickets, or entry blanks used in connection with a drawing by chance shall conspicuously disclose:

(a) The rules governing the conduct and operation of the drawing.

(b) The full name of the organization and its principal place of business.

(c) The source of the funds used to award cash prizes or to purchase prizes.

(d) The date, hour, and place where the winner will be chosen and the prizes will be awarded, unless the brochures, advertisements, notices, tickets, or entry blanks are not offered to the public more than 3 days prior to the drawing.
(e) That no purchase or contribution is necessary.
(4) It is unlawful for any organization that, pursuant to the authority granted by this section, promotes, operates, or conducts a drawing by chance:
(a) To design, engage in, promote, or conduct any drawing in which the winner is predetermined by means of matching, instant win, or preselected sweepstakes or otherwise or in which the selection of the winners is in any way rigged;
(b) To require an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition of entering the drawing or of being selected to win a prize. However, this paragraph does not prohibit an organization from suggesting a minimum donation or from including a statement of such suggested minimum donation on any printed material used in connection with the fundraising event or drawing;
(c) To condition the drawing on a minimum number of tickets having been disbursed to contributors or on a minimum amount of contributions having been received;
(d) To arbitrarily remove, disqualify, disallow, or reject any entry or to discriminate in any manner between entrants who gave contributions to the organization and those who did not give such contributions;
(e) To fail to promptly notify, at the address set forth on the entry blank, any person whose entry is selected to win of the fact that he or she won;
(f) To fail to award all prizes offered;
(g) To print, publish, or circulate literature or advertising material used in connection with the drawing which is false, deceptive, or misleading;
(h) To cancel a drawing; or
(i) To condition the acquisition or giveaway of any prize upon the receipt of voluntary donations or contributions.
(5) The organization conducting the drawing may limit the number of tickets distributed to each drawing entrant.
(6) A violation of this section is a deceptive and unfair trade practice.
(7) Any organization that engages in any act or practice in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any organization or other person who sells or offers for sale in this state a ticket or entry blank for a raffle or other drawing by chance, without complying with the requirements of paragraph (3)(d), commits a misdemeanor of the second degree, punishable by fine only as provided in s. 775.083.
(8) This section does not apply to the state lottery operated pursuant to chapter 24.
History.—s. 1, ch. 84-181; ss. 1, 2, ch. 88-115; s. 216, ch. 91-224; s. 1, ch. 96-253; s. 1825, ch. 97-102; s. 1, ch. 97-108; s. 2, ch. 2013-2.

849.094 GAME PROMOTION IN CONNECTION WITH SALE OF CONSUMER PRODUCTS OR SERVICES

(1) As used in this section, the term:
(a) "Game promotion" means, but is not limited to, a contest, game of chance, sweepstakes, or gift enterprise, conducted by an operator within or throughout the state and other states in connection with and incidental to the sale of consumer products or services, and in which the elements of chance and prize are present. However, "game promotion" may not be construed to apply to bingo games conducted pursuant to s. 849.0931.
(b) "Operator" means a retailer who operates a game promotion or any person, firm, corporation, organization, or association or agent or employee thereof who promotes, operates, or conducts a nationally advertised game promotion.
(2) It is unlawful for any operator:
(a) To design, engage in, promote, or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or the game may be manipulated or rigged so as to:
1. Allocate a winning game or any portion thereof to certain lessees, agents, or franchises; or
2. Allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area;
(b) Arbitrarily to remove, disqualify, disallow, or reject any entry;
(c) To fail to award prizes offered;
(d) To print, publish, or circulate literature or advertising material used in connection with such game promotions which is false, deceptive, or misleading; or
(e) To require an entry fee, payment, or proof of purchase as a condition of entering a game promotion.
(3) The operator of a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall file with the Department of Agriculture and Consumer Services a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered at least 7 days before the commencement of the game promotion. Such rules and regulations may not thereafter be changed, modified, or altered. The operator of a game promotion shall conspicuously post the rules and regulations of such game promotion in each and every retail outlet or place where such game promotion may be played or participated in by the public and shall also publish the rules and regulations in all advertising copy used in connection therewith. However, such advertising copy need only include the material terms of the rules and regulations if the advertising copy includes a website address, a toll-free telephone number, or a mailing address where the full rules and regulations may be viewed, heard, or obtained for the full duration of the game promotion. Such disclosures must be legible. Radio and television announcements may indicate that the rules and regulations are available at retail outlets or from the operator of the promotion. A nonrefundable filing fee of $100 shall accompany each filing and shall be used to pay the costs incurred in administering and enforcing the provisions of this section.
(4)(a) Every operator of such a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall establish a trust account, in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a form supplied by the Department of Agriculture and Consumer Services, an official of the financial institution holding the trust account shall set forth the dollar amount of the trust account, the identity of the entity or individual establishing the trust account, and the name of the game promotion for which the trust account has been established. Such form shall be filed with the Department of Agriculture and Consumer Services at least 7 days in advance of the commencement of the game promotion. In lieu of establishing such trust account, the operator may obtain a surety bond in an amount equivalent to the total value of all prizes offered; and such bond shall be filed with the Department of Agriculture and Consumer Services at least 7 days in advance of the commencement of the game promotion.
1. The moneys held in the trust account may be withdrawn in order to pay the prizes offered only upon certification to the Department of Agriculture and Consumer Services of the name of the winner or winners and the amount of the prize or prizes and the value thereof.
2. If the operator of a game promotion has obtained a surety bond in lieu of establishing a trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.
(b) The Department of Agriculture and Consumer Services may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him or her by the state or an agency of the state for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such

operator, as determined by the Department of Agriculture and Consumer Services.
(5) Every operator of a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall provide the Department of Agriculture and Consumer Services with a certified list of the names and addresses of all persons, whether from this state or from another state, who have won prizes which have a value of more than $25, the value of such prizes, and the dates when the prizes were won within 60 days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his or her option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined and shall provide to the Department of Agriculture and Consumer Services a certified copy of the publication containing the information about the winners. The operator of a game promotion is not required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner can determine that he or she has won a designated prize. All winning entries shall be held by the operator for a period of 90 days after the close or completion of the game.
(6) The Department of Agriculture and Consumer Services shall keep the certified list of winners for a period of at least 6 months after receipt of the certified list. The department thereafter may dispose of all records and lists.
(7) No operator shall force, directly or indirectly, a lessee, agent, or franchise dealer to purchase or participate in any game promotion. For the purpose of this section, coercion or force shall be presumed in these circumstances in which a course of business extending over a period of 1 year or longer is materially changed coincident with a failure or refusal of a lessee, agent, or franchise dealer to participate in such game promotions. Such force or coercion shall further be presumed when an operator advertises generally that game promotions are available at its lessee dealers or agent dealers.
(8)(a) The Department of Agriculture and Consumer Services shall have the power to promulgate such rules and regulations respecting the operation of game promotions as it deems advisable.
(b) Compliance with the rules of the Department of Agriculture and Consumer Services does not authorize and is not a defense to a charge of possession of a slot machine or device or any other device or a violation of any other law.
(c) Whenever the Department of Agriculture and Consumer Services or the Department of Legal Affairs has reason to believe that a game promotion is being operated in violation of this section, it may bring an action in the circuit court of any judicial circuit in which the game promotion is being operated in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion anywhere within the state.
(9)(a) Any person, firm, or corporation, or association or agent or employee thereof, who engages in any acts or practices stated in this section to be unlawful, or who violates any of the rules and regulations made pursuant to this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(b) Any person, firm, corporation, association, agent, or employee who violates any provision of this section or any of the rules and regulations made pursuant to this section shall be liable for a civil penalty of not more than $1,000 for each such violation, which shall accrue to the state and may be recovered in a civil action brought by the Department of Agriculture and Consumer Services or the Department of Legal Affairs.
(10) This section does not apply to actions or transactions regulated by the Department of Business and Professional Regulation or the Florida Gaming Control Commission or to the activities of nonprofit organizations or to any other organization engaged in any enterprise other than the sale of consumer products or services. Subsections (3)-(7) and paragraph (8)(a) and any of the rules made pursuant thereto do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.
(11) A violation of this section, or soliciting another to commit an act that violates this section, constitutes a deceptive and unfair trade practice actionable under the Florida Deceptive and Unfair Trade Practices Act.
History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, ch. 71-304; s. 1, ch. 73-292; s. 1, ch. 81-38; s. 1, ch. 83-118; s. 1, ch. 85-197; s. 1, ch. 90-36; s. 5, ch. 91-206; ss. 5, 6, ch. 92-280; s. 1, ch. 93-160; s. 251, ch. 94-218; s. 1364, ch. 97-102; s. 2, ch. 97-108; ss. 60, 70, ch. 2000-258; s. 1, ch. 2005-99; s. 3, ch. 2013-2; s. 7, ch. 2022-179.

849.10 PRINTING LOTTERY TICKETS, ETC., PROHIBITED

(1) Except as otherwise provided by law, it is unlawful for any person, in any house, office, shop or building in this state to write, typewrite, print, or publish any lottery ticket or advertisement, circular, bill, poster, pamphlet, list or schedule, announcement or notice, of lottery prizes or drawings or any other matter or thing in any way connected with any lottery drawing, scheme or device, or to set up any type or plate for any such purpose, to be used or distributed in this state, or to be sent out of this state.
(2) Except as otherwise provided by law, it is unlawful for the owner or lessee of any such house, shop or building knowingly to permit the printing, typewriting, writing or publishing therein of any lottery ticket or advertisement, circular, bill, poster, pamphlet, list, schedule, announcement or notice of lottery prizes or drawings, or any other matter or thing in any way connected with any lottery drawing, scheme or device, or knowingly to permit therein the setting up of any type or plate for any such purpose to be used or distributed in this state, or to be sent out of the state.
(3) Nothing in this chapter shall make unlawful the printing or production of any advertisement or any lottery ticket for a lottery conducted in any other state or nation where such lottery is not prohibited by the laws of such state or nation, or the sale of such materials by the manufacturer thereof to any person or entity conducting or participating in the conduct of such a lottery in any other state or nation. This section does not authorize any advertisement within Florida relating to lotteries of any other state or nation, or the sale or resale within Florida of such lottery tickets, chances, or shares to individuals, or any other acts otherwise in violation of any laws of the state.
(4) Any violation of this section shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
History.—s. 2, ch. 4373, 1895; GS 3583; RGS 5510; CGL 7668; s. 1066, ch. 71-136; s. 1, ch. 96-320.

849.11 PLAYS AT GAMES OF CHANCE BY LOT

Whoever sets up, promotes or plays at any game of chance by lot or with dice, cards, numbers, hazards or any other gambling device whatever for, or for the disposal of money or other thing of value or under the pretext of a sale, gift or delivery thereof, or for any right, share or interest therein, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 3, ch. 4373, 1895; GS 3584; RGS 5511; CGL 7669; s. 1067, ch. 71-136.

849.12 MONEY AND PRIZES TO BE FORFEITED

All sums of money and every other valuable thing drawn and won as a prize, or as a share of a prize, or as a share, percentage or profit of the principal promoter or operator, in any lottery, and all money, currency or property of any kind to be disposed of, or offered to be disposed of, by chance or device in any scheme or under any pretext by any person, and all sums of money or other thing of value received by any person by reason of her or his being the owner or holder of any ticket or share

of a ticket in a lottery, or pretended lottery, or of a share or right in any such schemes of chance or device and all sums of money and other thing of value used in the setting up, conducting or operation of a lottery, and all money or other thing of value at stake, or used or displayed in or in connection with any illegal gambling or any illegal gambling device contrary to the laws of this state, shall be forfeited, and may be recovered by civil proceedings, filed, or by action for money had and received, to be brought by the Department of Legal Affairs or any state attorney, or other prosecuting officer, in the circuit courts in the name and on behalf of the state; the same to be applied when collected as all other penal forfeitures are disposed of.
History.—s. 4, ch. 4373, 1895; GS 3585; RGS 5512; CGL 7670; s. 1, ch. 28088, 1953; ss. 11, 35, ch. 69-106; s. 1365, ch. 97-102.

849.13 PUNISHMENT ON SECOND CONVICTION

Whoever, after being convicted of an offense forbidden by law in connection with lotteries, commits the like offense, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 4, sub-ch. 10, ch. 1637, 1868; RS 2655; GS 3586; RGS 5513; CGL 7671; s. 1068, ch. 71-136.

849.14 UNLAWFUL TO BET ON RESULT OF TRIAL OR CONTEST OF SKILL, ETC

Whoever stakes, bets, or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of human or beast, or whoever receives in any manner whatsoever any money or other thing of value staked, bet, or wagered, or offered for the purpose of being staked, bet, or wagered, by or for any other person upon any such result, or whoever knowingly becomes the custodian or depositary of any money or other thing of value so staked, bet, or wagered upon any such result, or whoever aids, or assists, or abets, or influences in any manner in any of such acts all of which are hereby forbidden, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 1, ch. 5959, 1909; s. 1, ch. 6188, 1911; RGS 5514; CGL 7672; s. 1069, ch. 71-136; s. 1366, ch. 97-102; s. 35, ch. 2021-271.

849.141 BOWLING TOURNAMENTS EXEMPTED FROM CHAPTER

(1) Nothing contained in this chapter shall be applicable to participation in or the conduct of a bowling tournament conducted at a bowling center which requires the payment of entry fees, from which fees the winner receives a purse or prize.
(2) As used in this section, the term:
(a) "Bowling tournament" means a contest in which participants engage in the sport of bowling, wherein a heavy ball is bowled along a bowling lane in an attempt to knock over bowling pins, 10 in number, set upright at the far end of the lane, according to specified regulations and rules of the American Bowling Congress, the Womens International Bowling Congress, or the Bowling Proprietors Association of America.
(b) "Bowling center" means a place of business having at least 12 bowling lanes on the premises which are operated for the entertainment of the general public for the purpose of engaging in the sport of bowling.
History.—s. 1, ch. 85-24.

849.142 EXEMPTED ACTIVITIES

Sections 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to participation in or the conduct of any of the following activities:
(1) Gaming activities authorized under s. 285.710(13) and conducted pursuant to a gaming compact ratified and approved under s. 285.710(3).
(2) Amusement games conducted pursuant to chapter 546.
(3) Pari-mutuel wagering conducted pursuant to chapter 550.
(4) Slot machine gaming conducted pursuant to chapter 551.
(5) Games conducted pursuant to s. 849.086.
(6) Bingo games conducted pursuant to s. 849.0931.
History.—s. 36, ch. 2021-271.

849.15 MANUFACTURE, SALE, POSSESSION, ETC., OF SLOT MACHINES OR DEVICES PROHIBITED

(1) It is unlawful:
(a) To manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or
(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.
(2) Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).
History.—s. 1, ch. 18143, 1937; CGL 1940 Supp. 4151(405-a); s. 1367, ch. 97-102; s. 2, ch. 2005-362; s. 156, ch. 2007-5; s. 11, ch. 2007-252.

849.16 MACHINES OR DEVICES WHICH COME WITHIN PROVISIONS OF LAW DEFINED

(1) As used in this chapter, the term "slot machine or device" means any machine or device or system or network of devices that is adapted for use in such a way that, upon activation, which may be achieved by, but is not limited to, the insertion of any piece of money, coin, account number, code, or other object or information, such device or system is directly or indirectly caused to operate or may be operated and if the user, whether by application of skill or by reason of any element of chance or any other outcome unpredictable by the user, may:

(a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
(b) Secure additional chances or rights to use such machine, apparatus, or device, even though the device or system may be available for free play or, in addition to any element of chance or unpredictable outcome of such operation, may also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value. The term "slot machine or device" includes, but is not limited to, devices regulated as slot machines pursuant to chapter 551.
(2) This chapter may not be construed, interpreted, or applied to the possession of a reverse vending machine. As used in this section, the term "reverse vending machine" means a machine into which empty beverage containers are deposited for recycling and which provides a payment of money, merchandise, vouchers, or other incentives. At a frequency less than upon the deposit of each beverage container, a reverse vending machine may pay out a random incentive bonus greater than that guaranteed payment in the form of money, merchandise, vouchers, or other incentives. The deposit of any empty beverage container into a reverse vending machine does not constitute consideration, and a reverse vending machine may not be deemed a slot machine as defined in this section.
(3) There is a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value.
History.—s. 2, ch. 18143, 1937; CGL 1940 Supp. 4151(405-b); s. 1, ch. 67-203; s. 1, ch. 77-275; s. 2, ch. 84-247; s. 3, ch. 89-176; s. 1368, ch. 97-102; s. 4, ch. 2013-2.

849.17 CONFISCATION OF MACHINES BY ARRESTING OFFICER

Upon the arrest of any person charged with the violation of any of the provisions of ss. 849.15-849.23 the arresting officer shall take into his or her custody any such machine, apparatus or device, and its contents, and the arresting agency, at the place of seizure, shall make a complete and correct list and inventory of all such things so taken into his or her custody, and deliver to the person from whom such article or articles may have been seized, a true copy of the list of all such articles. The arresting agency shall retain all evidence seized and shall have the same forthcoming at any investigation, prosecution or other proceedings, incident to charges of violation of any of the provisions of ss. 849.15-849.23.
History.—s. 4, ch. 18143, 1937; CGL 1940 Supp. 4151(405-c); s. 1, ch. 89-176; s. 1369, ch. 97-102.

849.18 DISPOSITION OF MACHINES UPON CONVICTION

Upon conviction of the person arrested for the violation of any of the provisions of ss. 849.15-849.23, the judge of the court trying the case, after such notice to the person convicted, and any other person whom the judge may be of the opinion is entitled to such notice, and as the judge may deem reasonable, shall issue to the sheriff of the county a written order adjudging and declaring any such machine, apparatus or device forfeited, and directing such sheriff to destroy the same, with the exception of the money. The order of the court shall state the time and place and the manner in which such property shall be destroyed, and the sheriff shall destroy the same in the presence of the clerk of the circuit court of such county.
History.—s. 5, ch. 18143, 1937; CGL 1940 Supp. 4151(405-d).

849.19 PROPERTY RIGHTS IN CONFISCATED MACHINE

The right of property in and to any machine, apparatus or device as defined in s. 849.16 and to all money and other things of value therein, is declared not to exist in any person, and the same shall be forfeited and such money or other things of value shall be forfeited to the county in which the seizure was made and shall be delivered forthwith to the clerk of the circuit court and shall by her or him be placed in the fine and forfeiture fund of said county.
History.—s. 6, ch. 18143, 1937; CGL 1940 Supp. 4151(405-e); s. 1370, ch. 97-102; s. 10, ch. 2013-2.

849.20 MACHINES AND DEVICES DECLARED NUISANCE; PLACE OF OPERATION SUBJECT TO LIEN FOR FINE

Any room, house, building, boat, vehicle, structure or place wherein any machine or device, or any part thereof, the possession, operation or use of which is prohibited by ss. 849.15-849.23, shall be maintained or operated, and each of such machines or devices, is declared to be a common nuisance. If a person has knowledge, or reason to believe, that his or her room, house, building, boat, vehicle, structure or place is occupied or used in violation of the provisions of ss. 849.15-849.23 and by acquiescence or consent suffers the same to be used, such room, house, building, boat, vehicle, structure or place shall be subject to a lien for and may be sold to pay all fines or costs assessed against the person guilty of such nuisance, for such violation, and the several state attorneys shall enforce such lien in the courts of this state having jurisdiction.
History.—s. 7, ch. 18143, 1937; CGL 1940 Supp. 4151(405-f); s. 7, ch. 22858, 1945; s. 1371, ch. 97-102.

849.21 INJUNCTION TO RESTRAIN VIOLATION

An action to enjoin any nuisance as herein defined may be brought by any person in the courts of equity in this state. If it is made to appear by affidavit or otherwise, to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the action. Upon application of the complainant in such a proceeding, the court or judge may also enter an order restraining the defendant and all other persons from removing, or in any way interfering with the machines or devices or other things used in connection with the violation of ss. 849.15-849.23 constituting such a nuisance. No bond shall be required in instituting such proceedings.
History.—s. 8, ch. 18143, 1937; CGL 1940 Supp. 4151 (405-g).

849.22 FEES OF CLERK OF CIRCUIT COURT AND SHERIFF

The clerks of the courts and the sheriffs performing duties under the provisions of ss. 849.15-849.23 shall receive the same fees as prescribed by general law for the performance of similar duties, and such fees shall be paid out of the fine and forfeiture fund of the county as costs are paid upon conviction of an insolvent person.
History.—s. 9, ch. 18143, 1937; CGL 1940 Supp. 4151(405-h).

849.23 PENALTY FOR VIOLATIONS OF SS. 849.15-849.22

Whoever shall violate any of the provisions of ss. 849.15-849.22 shall, upon conviction thereof, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person convicted of violating any provision of ss. 849.15-849.22, a second time shall, upon conviction thereof, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person violating any provision of ss. 849.15-849.22 after having been twice convicted already shall be deemed a "common offender," and

shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
History.—s. 3, ch. 18143, 1937; CGL 1940 Supp. 8135(21); s. 1070, ch. 71-136.

849.231 GAMBLING DEVICES; MANUFACTURE, SALE, PURCHASE OR POSSESSION UNLAWFUL

(1) Except in instances when the following described implements or apparatus are being held or transported by authorized persons for the purpose of destruction, as hereinafter provided, and except in instances when the following described instruments or apparatus are being held, sold, transported, or manufactured by persons who have registered with the United States Government pursuant to the provisions of Title 15 of the United States Code, ss. 1171 et seq., as amended, so long as the described implements or apparatus are not displayed to the general public, sold for use in Florida, or held or manufactured in contravention of the requirements of 15 U.S.C. ss. 1171 et seq., it shall be unlawful for any person to manufacture, sell, transport, offer for sale, purchase, own, or have in his or her possession any roulette wheel or table, faro layout, crap table or layout, chemin de fer table or layout, chuck-a-luck wheel, bird cage such as used for gambling, bolita balls, chips with house markings, or any other device, implement, apparatus, or paraphernalia ordinarily or commonly used or designed to be used in the operation of gambling houses or establishments, excepting ordinary dice and playing cards.
(2) In addition to any other penalties provided for the violation of this section, any occupational license held by a person found guilty of violating this section shall be suspended for a period not to exceed 5 years.
(3) This section and s. 849.05 do not apply to a vessel of foreign registry or a vessel operated under the authority of a country except the United States, while docked in this state or transiting in the territorial waters of this state.
History.—s. 1, ch. 29665, 1955; s. 9, ch. 74-385; s. 1, ch. 77-174; s. 2, ch. 87-255; s. 1372, ch. 97-102.

849.232 PROPERTY RIGHT IN GAMBLING DEVICES; CONFISCATION

There shall be no right of property in any of the implements or devices enumerated or included in s. 849.231 and upon the seizure of any such implement, device, apparatus or paraphernalia by an authorized enforcement officer the same shall be delivered to and held by the clerk of the court having jurisdiction of such offenses and shall not be released by such clerk until he or she shall be advised by the prosecuting officer of such court that the said implement is no longer required as evidence and thereupon the said clerk shall deliver the said implement to the sheriff of the county who shall immediately cause the destruction of such implement in the presence of the said clerk or his or her authorized deputy.
History.—s. 2, ch. 29665, 1955; s. 1373, ch. 97-102.

849.233 PENALTY FOR VIOLATION OF S. 849.231

Any person, including any enforcement officer, clerk or prosecuting official who shall violate the provisions of s. 849.231 shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 3, ch. 29665, 1955; s. 1071, ch. 71-136.

849.235 POSSESSION OF CERTAIN GAMBLING DEVICES; DEFENSE

(1) It is a defense to any action or prosecution under ss. 849.15-849.233 for the possession of any gambling device specified therein that the device is an antique slot machine and that it is not being used for gambling. For the purpose of this section, an antique slot machine is one which was manufactured at least 20 years prior to such action or prosecution.
(2) Notwithstanding any provision of this chapter to the contrary, upon a successful defense to a prosecution for the possession of a gambling device pursuant to the provisions of this section, the antique slot machine shall be returned to the person from whom it was seized.
History.—s. 1, ch. 78-22; s. 1, ch. 88-71.

849.25 "BOOKMAKING" DEFINED; PENALTIES; EXCEPTIONS

(1)(a) The term "bookmaking" means the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever.
(b) The following factors shall be considered in making a determination that a person has engaged in the offense of bookmaking:
1. Taking advantage of betting odds created to produce a profit for the bookmaker or charging a percentage on accepted wagers.
2. Placing all or part of accepted wagers with other bookmakers to reduce the chance of financial loss.
3. Taking or receiving more than five wagers in any single day.
4. Taking or receiving wagers totaling more than $500 in any single day, or more than $1,500 in any single week.
5. Engaging in a common scheme with two or more persons to take or receive wagers.
6. Taking or receiving wagers on both sides on a contest at the identical point spread.
7. Any other factor relevant to establishing that the operating procedures of such person are commercial in nature.
(c) The existence of any two factors listed in paragraph (b) may constitute prima facie evidence of a commercial bookmaking operation.
(2) Any person who engages in bookmaking shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.
(3) Any person who has been convicted of bookmaking and thereafter violates the provisions of this section shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.
(4) Notwithstanding the provisions of s. 777.04, any person who is guilty of conspiracy to commit bookmaking shall be subject to the penalties imposed by subsections (2) and (3).
(5) This section shall not apply to pari-mutuel wagering in Florida as authorized under chapter 550.
(6) This section shall not apply to any prosecutions filed and pending at the time of the passage hereof, but all such cases shall be disposed of under existing laws at the time of the institution of such prosecutions.
History.—ss. 1-3, ch. 26847, 1951; s. 1073, ch. 71-136; s. 47, ch. 75-298; s. 1, ch. 78-36; s. 48, ch. 87-243; s. 64, ch. 92-348; s. 1374, ch. 97-102.

849.251 WAGERING, AIDING, ABETTING, OR CONNIVING TO RACE OR WAGER ON GREYHOUNDS OR OTHER DOGS; PENALTY

(1) A person in this state may not wager or accept money or any other thing of value on the outcome of a live dog race occurring in this state. A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a

felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any person who aids, abets, influences, or has any understanding or connivance with any person associated with or interested in any race of or wager on greyhounds or other dogs in this state, to organize or arrange a race of or wager on greyhounds or other dogs in this state, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) Notwithstanding the provisions of s. 948.01, any person convicted under subsection (1) or subsection (2) may not have adjudication of guilt suspended, deferred, or withheld.
(4) This section does not apply to pari-mutuel wagering authorized under chapter 550.
History.—s. 37, ch. 2021-271.

849.26 GAMBLING CONTRACTS DECLARED VOID; EXCEPTION

All promises, agreements, notes, bills, bonds or other contracts, mortgages or other securities, when the whole or part of the consideration if for money or other valuable thing won or lost, laid, staked, betted or wagered in any gambling transaction whatsoever, regardless of its name or nature, whether heretofore prohibited or not, or for the repayment of money lent or advanced at the time of a gambling transaction for the purpose of being laid, betted, staked or wagered, are void and of no effect; provided, that this act shall not apply to wagering on pari-mutuels or any gambling transaction expressly authorized by law.
History.—s. 1, ch. 26543, 1951.

849.29 PERSONS AGAINST WHOM SUITS MAY BE BROUGHT TO RECOVER ON GAMBLING CONTRACTS

The following persons shall be jointly and severally liable for the items which are authorized by this act to be sued for and recovered, and any suit brought under the authorization of this act may be brought against all or any of such persons, to wit: The winner of the money or property lost in the gambling transaction; every person who, having direct or indirect charge, control or management, either exclusively or with others, of the place where the gambling transaction occurs, procures, suffers or permits such place to be used for gambling purposes; whoever promotes, sets up or conducts the gambling transaction in which the loss occurs or has an interest in it as backer, vendor, owner or otherwise; and, as to anything of value other than money, the transferees and assignees, with notice, of the persons hereinabove specified in this section; and the personal representatives of the persons specified in this section.
History.—s. 4, ch. 26543, 1951.

849.30 PLAINTIFF ENTITLED TO WRITS OF ATTACHMENT, GARNISHMENT AND REPLEVIN

In any suit under ss. 849.26-849.34, the plaintiff shall be entitled to writs of attachment and garnishment for the sums of money, exclusive of attorney's fees, sued for the use and benefit of persons other than the state, in the same manner and to the same extent as in an action on contract; and, in any suit under this chapter for the recovery of a thing of value other than money, the plaintiff shall be entitled to a writ of replevin for the recovery of such thing of value, in the manner and to the extent provided by the replevin statutes of the state.
History.—s. 5, ch. 26543, 1951; s. 24, ch. 57-1.

849.31 LOSER'S TESTIMONY NOT TO BE USED AGAINST HER OR HIM

In the event that suit is brought under the authorization of ss. 849.26-849.34 by someone other than the loser of the money or thing of value involved in the suit, such loser shall not be excused from being required to attend and testify or produce any book, paper or other document or evidence in such suit, upon the ground or for the reason that the testimony or evidence required of the loser may tend to convict her or him of a crime or to subject her or him to a penalty or forfeiture, but the loser shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which she or he may so be required to testify or produce evidence, and no testimony so given or produced shall be received against the loser upon any criminal investigation or prosecution. If the loser of money or thing of value involved in a suit brought under authorization of ss. 849.26-849.34, whether by her or him or by someone else, voluntarily attends or produces evidence in such suit, the loser shall not be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which she or he may so testify or produce evidence, and no testimony so given or produced shall be received against her or him upon any criminal investigation or prosecution. Also, neither the fact of the bringing of suit under this act by a loser nor any statement or admission in her or his pleadings which is material and relevant to the subject matter of the suit shall be received against the loser upon any criminal investigation or proceeding.
History.—s. 6, ch. 26543, 1951; s. 1375, ch. 97-102.

849.32 NOTICE TO STATE ATTORNEY; PROSECUTION OF SUIT.

The summons in any such suit, and copies of all pleadings and notices of all hearings in the suit, and notice of the trial and of application for the entry of final judgment, shall be served on the state attorney, whose duty it shall be to protect the interests of the state and, if the plaintiff fails to diligently prosecute the suit, to bring such failure to the attention of the court. If the plaintiff fails to effectively prosecute any such suit without collusion or deceit and without unnecessary delay, the court shall direct the state attorney to proceed with the action. No such suit shall be dismissed except upon a sworn statement filed by the plaintiff or the state attorney which satisfies the court that the suit should be dismissed.
History.—s. 7, ch. 26543, 1951.

849.33 JUDGMENT AND COLLECTION OF MONEY; EXECUTION

Any judgment recovered in such a suit shall adjudge separately the amounts recovered for the use of the state, and the plaintiff shall not have execution therefor, and such amounts shall not be paid to the plaintiff, but shall be payable to the state attorney, who shall promptly transmit the sums collected by him or her to the Chief Financial Officer. The state attorney shall diligently seek the collection of such amounts and may cause a separate execution to issue for the collection thereof.
History.—s. 8, ch. 26543, 1951; s. 1376, ch. 97-102; s. 1914, ch. 2003-261.

849.34 LOSER'S JUDGMENT; RECOVERY OF PROPERTY; WRIT OF ASSISTANCE

If the plaintiff in any such suit seek to recover property lost, and if the plaintiff shall prevail as to any such property, he or she shall take judgment for the property itself and for the value thereof, the judgment as to such property to be satisfied by the recovery of the property or of the value thereof. The plaintiff may, at his or her option, sue out a separate writ of possession for the property and a separate execution for any other moneys and costs adjudged in his or her favor, or the plaintiff may sue out an execution for the value of the property and any other moneys and costs adjudged in his or her favor. If the plaintiff elect to sue out a writ of possession for the property, and if the officer shall return that he or she is unable to find the property, or any of it,

the plaintiff may thereupon sue out execution for the value of the property not found. In any proceeding to ascertain the value of the property, the value of each article shall be found so that judgment for such value may be entered.
History.—s. 9, ch. 26543, 1951; s. 1377, ch. 97-102.

849.35 DEFINITIONS

In construing ss. 849.36-849.46 and each and every word, phrase, or part thereof, where the context permits:
(1) The singular includes the plural and vice versa.
(2) Gender-specific language includes the other gender and neuter.
(3) The term "vessel" includes every description of watercraft, vessel or contrivance used, or capable of being used, as a means of transportation in or on water, or in or on the water and in the air.
(4) The term "vehicle" includes every description of vehicle, carriage, animal or contrivance used, or capable of being used, as a means of transportation on land, in the air, or on land and in the air.
(5) The term "gambling paraphernalia" includes every description of apparatus, implement, machine, device or contrivance used in, or in connection with, any violation of the lottery, gaming and gambling statutes, and laws of this state, except facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of such utility while so furnished.
(6) The term "lottery ticket" shall include every ticket, token, emblem, card, paper or other evidence of a chance, interest, prize or share in, or in connection with any lottery, game of chance or hazard or other things in violation of the lottery and gambling statutes and laws of this state (including bolita, cuba, bond, New York bond, butter and eggs, night house and other like and similar operations, but not excluding others). The said term shall also include so-called rundown sheets, tally sheets, and all other papers, records, instruments, and things designed for use, either directly or indirectly, in, or in connection with, the violation of the statutes and laws of this state prohibiting lotteries and gambling in this state.
History.—s. 1, ch. 29712, 1955; s. 1378, ch. 97-102.

849.36 SEIZURE AND FORFEITURE OF PROPERTY USED IN THE VIOLATION OF LOTTERY AND GAMBLING STATUTES

(1) Every vessel or vehicle used for, or in connection with, the removal, transportation, storage, deposit, or concealment of any lottery tickets, or used in connection with any lottery or game in violation of the statutes and laws of this state, shall be subject to seizure and forfeiture, as provided by the Florida Contraband Forfeiture Act.
(2) All gambling paraphernalia and lottery tickets as herein defined used in connection with a lottery, gambling, unlawful game of chance or hazard, in violation of the statutes and laws of this state, found by an officer in searching a vessel or vehicle used in the violation of the gambling laws shall be safely kept so long as it is necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards, shall be destroyed by order of the court before whom the case is brought or certified to any other court having jurisdiction, either state or federal.
(3) The presence of any lottery ticket in any vessel or vehicle owned or being operated by any person charged with a violation of the gambling laws of the state, shall be prima facie evidence that such vessel or vehicle was or is being used in connection with a violation of the lottery and gambling statutes and laws of this state and as a means of removing, transporting, depositing, or concealing lottery tickets and shall be sufficient evidence for the seizure of such vessel or vehicle.
(4) The presence of lottery tickets in any room or place, including vessels and vehicles, shall be prima facie evidence that such room, place, vessel, or vehicle, and all apparatus, implements, machines, contrivances, or devices therein, (herein referred to as "gambling paraphernalia") capable of being used in connection with a violation of the lottery and gambling statutes and laws of this state and shall be sufficient evidence for the seizure of such gambling paraphernalia.
(5) It shall be the duty of every peace officer in this state finding any vessel, vehicle, or paraphernalia being used in violation of the statutes and laws of this state as aforesaid to seize and take possession of such property for disposition as hereinafter provided. It shall also be the duty of every peace officer finding any such property being so used, in connection with any lawful search made by her or him, to seize and take possession of the same for disposition as hereinafter provided.
History.—s. 2, ch. 29712, 1955; s. 1, ch. 57-236; s. 8, ch. 74-385; s. 8, ch. 80-68; s. 1379, ch. 97-102.

849.37 DISPOSITION AND APPRAISAL OF PROPERTY SEIZED UNDER THIS CHAPTER

(1) Every peace officer, other than the sheriff, seizing property pursuant to the provisions of ss. 849.36-849.46 shall forthwith make return of the seizure thereof and deliver the said property to the sheriff of the county wherein the same was seized. The said return to the sheriff shall describe the property seized and give in detail the facts and circumstances under which the same was seized and state in full the reason why the seizing officer knew, or was led to believe, that the said property was being used for or in connection with a violation of the statutes and laws of this state prohibiting lotteries and gambling in this state. The said return shall contain the names of all persons, firms and corporations known to the seizing officer to be interested in the seized property.
(2) When property is seized by the sheriff pursuant to this chapter, or when property seized by another is delivered to the sheriff as aforesaid, the sheriff shall forthwith fix the approximate value thereof and make return thereof to the clerk of the circuit court as hereinafter provided.
(3) The return of the sheriff aforesaid shall contain a schedule of the property seized describing the same in reasonable detail and give in detail the facts and circumstances under which it was seized and state in full the reason why the seizing officer knew or was led to believe that the property was being used for or in connection with a violation of the statutes and laws of this state prohibiting lotteries or gambling in this state; and a statement of the names of all persons, firms and corporations known to the sheriff to be interested in the seized property; and in cases where the said property was seized by another the sheriff shall attach to his or her said return, as an exhibit thereto, the return of the seizing officer to him or her.
(4) The sheriff shall hold the said property seized pending its disposal by the court as hereinafter provided.
History.—s. 3, ch. 29712, 1955; s. 1380, ch. 97-102.

849.38 PROCEEDINGS FOR FORFEITURE; NOTICE OF SEIZURE AND ORDER TO SHOW CAUSE

(1) The return of the sheriff aforesaid to the clerk of the circuit court shall be taken and considered as the state's petition or libel in rem for the forfeiture of the property therein described, of which the circuit court of the county shall have jurisdiction without regard to value. The said return shall be sufficient as said petition or libel notwithstanding the fact that it may contain no formal prayer or demand for forfeiture, it being the intention of the Legislature that forfeiture may be decreed without a formal prayer or demand therefor. The said return shall be subject to amendment at any time before final hearing, provided that copies thereof shall be served upon all persons, firms or corporations who may have filed a claim prior to such amendment.
(2) Upon the filing of said return the clerk of the circuit court shall issue a citation, directed to all persons, firms and corporations owning, having or claiming an interest in or a lien upon the seized property, giving notice of the seizure and directing that all persons, firms or corporations owning, having or claiming an interest therein or lien thereon, to file their claim to, on, or in said property within the time fixed in said citation, as to persons, firms and corporations not personally served, and within 20 days from personal service of said

citation, when personal service is had. Personal service shall be made on all parties, in Florida, having liens noted upon a certificate of title as shown by the records in the office of the Department of Highway Safety and Motor Vehicles.

(3) The said citation may be in, or substantially in, the following form:

IN THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT, IN AND FOR COUNTY, FLORIDA.

IN RE FORFEITURE OF THE FOLLOWING DESCRIBED PROPERTY:

(Here describe property)

THE STATE OF FLORIDA TO:

ALL PERSONS, FIRMS AND CORPORATIONS OWNING, HAVING OR CLAIMING AN INTEREST IN OR LIEN ON THE ABOVE DESCRIBED PROPERTY.

YOU AND EACH OF YOU are hereby notified that the above described property has been seized, under and by virtue of chapter , Laws of Florida, and is now in the possession of the sheriff of this county, and you, and each of you, are hereby further notified that a petition, under said chapter, has been filed in the Circuit Court of the Judicial Circuit, in and for County, Florida, seeking the forfeiture of the said property, and you are hereby directed and required to file your claim, if any you have, and show cause, on or before , (year) , if not personally served with process herein, and within 20 days from personal service if personally served with process herein, why the said property should not be forfeited pursuant to said chapter , Laws of Florida, 1955. Should you fail to file claim as herein directed judgment will be entered herein against you in due course. Persons not personally served with process may obtain a copy of the petition for forfeiture filed herein from the undersigned clerk of court.

WITNESS my hand and the seal of the above mentioned court, at Florida, this , (year) .

(COURT SEAL)

(Clerk of the above-mentioned Court.)

By (Deputy Clerk)

(4) Such citation shall be returnable, as to persons served constructively, as therein directed, not less than 21 nor more than 30 days, from the posting or publication thereof, and as to personally served with process within 20 days from service thereof. A copy of the petition shall be served with the process when personally served. Personal service of process may be made in the same manner as a summons in chancery.

(5) If the value of the property seized is shown by the sheriff's return to have an appraised value of $1,000 or less, the above citation shall be served by posting at three public places in the county, one of which shall be the front door of the courthouse; if the value of the property is shown by the sheriff's return to have an approximate value of more than $1,000, the citation shall be published by print or posted for at least 2 consecutive weeks on a publicly accessible website as provided in s. 50.0311. If published in print, the citation shall appear at least once each week for 2 consecutive weeks in a newspaper qualified to publish legal notices under chapter 50 that is published in the county, if there is such a newspaper published in the county. If there is no such newspaper, the notice of such publication shall be made by certificate of the clerk if publication is made by posting, and by affidavit as provided in chapter 50, if made by publication as provided in chapter 50, which affidavit or certificate shall be filed and become a part of the record in the cause. Failure of the record to show proof of such publication shall not affect any judgment made in the cause unless it shall affirmatively appear that no such publication was made.

History.—s. 4, ch. 29712, 1955; ss. 24, 35, ch. 69-106; s. 12, ch. 73-299; s. 27, ch. 90-279; s. 37, ch. 99-6; s. 29, ch. 2021-17; s. 21, ch. 2022-103.

849.39 DELIVERY OF PROPERTY TO CLAIMANT

Any person, firm, or corporation filing a claim in the cause, which claim shall state fully her or his right, title, claim, or interest, in and to the seized property, may, at any time after said claim is filed with the clerk of the court, obtain possession of the seized property by filing a petition therefor with the sheriff and posting with her or him, to be approved by her or him, a surety bond, payable to the Governor of the state in twice the amount of the value of the said property as fixed in the sheriff's return to the clerk of the circuit court, with a corporate surety duly authorized to transact business in this state as surety, conditioned upon her or his paying to the sheriff the value of the property together with costs of the proceeding, if judgment of forfeiture be entered by the court. Upon the posting of such bond with the sheriff and the release of the property to the applicant the cause shall proceed to final judgment in the same manner as it would have had no such bond been filed, except that any execution to be issued in the cause pursuant to judgment may run against and be enforced against the person posting said bond and the person's surety.

History.—s. 5, ch. 29712, 1955; s. 1381, ch. 97-102.

849.40 PROCEEDING WHEN NO CLAIM FILED

When no claim is filed in the cause within the time required the clerk shall enter a default against all persons, firms and corporations owning, claiming or having an interest in and to the property seized and the cause may then proceed in the same manner as a common-law cause after default, and final judgment shall be entered therein ex parte, except as may be herein otherwise provided.

History.—s. 6, ch. 29712, 1955.

849.41 PROCEEDING WHEN CLAIM FILED

When one or more claims are filed in the cause the cause shall be tried upon the issues made thereby with the petition for forfeiture with any affirmative defenses being deemed denied without further pleading. Judgment by default shall be entered against all other persons, firms and corporations owning, claiming or having an interest in and to the property seized, after which the cause shall proceed as in other common-law cases; except any claimant shall prove to the satisfaction of the court that he or she did not know or have any reason to believe, at the time his or her right, title, interest, or lien arose, that the property was being used for or in connection with the violation of any of the statutes or laws of this state prohibiting lotteries and gambling and further that at said time there was no reasonable reason to believe that the said property might be used for such purpose. Where the owner of the property has been convicted of a violation of the statutes and laws of this state prohibiting lotteries or gambling such conviction shall be prima facie evidence that each claimant had reason to believe that the property might be used for or in connection with a violation of such statutes and laws, and it shall be incumbent upon such claimant to satisfy the court that he or she was without knowledge of such conviction. Trial of all such causes shall be without a jury, except in such cases as a trial by jury may be guaranteed by the State Constitution and in such cases trial by jury shall be deemed waived unless demanded in the claim filed.

History.—s. 7, ch. 29712, 1955; s. 1382, ch. 97-102.

849.42 STATE ATTORNEY TO REPRESENT STATE

Upon the filing of the sheriff's return with the clerk of the circuit court the said clerk shall furnish the state attorney with a copy thereof and

the said state attorney shall represent the state in the forfeiture proceedings. The Department of Legal Affairs shall represent the state in all appeals from judgments of forfeiture to the appropriate district court of appeal or direct to the Supreme Court when authorized by s. 3, Art. V of the State Constitution. The state may appeal any judgment denying forfeiture in whole or in part or that may be otherwise adverse to the state.
History.—s. 8, ch. 29712, 1955; s. 34, ch. 63-559; ss. 11, 35, ch. 69-106; s. 13, ch. 73-299.

849.43 JUDGMENT OF FORFEITURE

On final hearing the return of the sheriff to the clerk of the circuit court shall be taken as prima facie evidence that the property seized was or had been used in, or in connection with, the violation of the statutes and laws of this state prohibiting lotteries and gambling in this state and shall be sufficient predicate for a judgment of forfeiture in the absence of other proofs and evidence. The burden shall be upon the claimants to show that the property was not so used or if so used that they had no knowledge of such violation and no reason to believe that the seized property was or would be used for the violation of such statutes and laws. Where such property is encumbered by a lien or retained title agreement under circumstances wherein the lienholder had no knowledge that the property was or would be used in violating such statutes and laws, and no reasonable reason to believe that it might be so used, then the court may declare a forfeiture of all other rights, titles and interests, subject, however, to the lien of such innocent lienholder, or may direct the payment of such lien from the proceeds of any sale of the said property. The proceedings and the judgment of forfeiture shall be in rem and shall be primarily against the property itself. Upon the entry of a judgment of forfeiture the court shall determine the disposition to be made of the property, which may include the destruction thereof, the sale thereof, the allocation thereof to some governmental function or use, or otherwise as the court may determine. Sales of such property shall be at public sale to the highest and best bidder therefor for cash after 2 weeks' public notice as the court may direct. Where the property has been delivered to a claimant upon the posting of a bond the court shall determine the value of the property or portion thereof subject to forfeiture and shall enter judgment against the principal and surety of the bond in such amount for which execution shall issue in the usual manner. Upon the application of any claimant the court may fix the value of the forfeitable interest or interests in the seized property and permit such claimant to redeem the said property upon the payment of a sum equal to said value, which sum shall be disposed of as would the proceeds of a sale of the said property under a judgment of forfeiture.
History.—s. 9, ch. 29712, 1955.

849.44 DISPOSITION OF PROCEEDS OF FORFEITURE

All sums received from a sale or other disposition of the seized property shall be paid into the county fine and forfeiture fund and shall become a part thereof; provided, however, that in instances where the seizure is by a municipal police officer within the limits of any municipality having an ordinance requiring such vehicles, vessels or conveyances to be forfeited, the city attorney shall act in behalf of the city in lieu of the state attorney and shall proceed to forfeit the property as herein provided, and all sums received therefrom shall go into the general operating fund of the city.
History.—s. 10, ch. 29712, 1955; s. 24, ch. 57-1.

849.45 FEES FOR SERVICES

Fees for services required hereunder shall be the same as provided for sheriffs and clerks for like and similar services in other cases and matters.
History.—s. 11, ch. 29712, 1955.

849.46 EXERCISE OF POLICE POWER

It is deemed by the Legislature that this chapter is necessary for the more efficient and proper enforcement of the statutes and laws of this state prohibiting lotteries and gambling, and a lawful exercise of the police power of the state for the protection of the public welfare, health, safety and morals of the people of the state. All the provisions of this chapter shall be liberally construed for the accomplishment of these purposes.
History.—s. 12, ch. 29712, 1955.

CHAPTER 119
PUBLIC RECORDS

119.01 GENERAL STATE POLICY ON PUBLIC RECORDS.

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

(2)(a) Automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.

(b) When designing or acquiring an electronic recordkeeping system, an agency must consider whether such system is capable of providing data in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(c) An agency may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records that are online or stored in an electronic recordkeeping system used by the agency.

(d) Subject to the restrictions of copyright and trade secret laws and public records exemptions, agency use of proprietary software must not diminish the right of the public to inspect and copy a public record.

(e) Providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. If an agency provides access to public records by remote electronic means, such access should be provided in the most cost-effective and efficient manner available to the agency providing the information.

(f) Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in that system which is not exempted by law from public disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee in accordance with this chapter. For the purpose of satisfying a public records request, the fee to be charged by an agency if it elects to provide a copy of a public record in a medium not routinely used by the agency, or if it elects to compile information not routinely developed or maintained by the agency or that requires a substantial amount of manipulation or programming, must be in accordance with s. 119.07(4).

(3) If public funds are expended by an agency in payment of dues or membership contributions for any person, corporation, foundation, trust, association, group, or other organization, all the financial, business, and membership records of that person, corporation, foundation, trust, association, group, or other organization which pertain to the public agency are public records and subject to the provisions of s. 119.07.

History.—s. 1, ch. 5942, 1909; RGS 424; CGL 490; s. 1, ch. 73-98; s. 2, ch. 75-225; s. 2, ch. 83-286; s. 4, ch. 86-163; ss. 1, 5, ch. 95-296; s. 2, ch. 2004-335; s. 1, ch. 2005-251.

119.011 DEFINITIONS

As used in this chapter, the term:

(1) "Actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(3)(a) "Criminal intelligence information" means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

(b) "Criminal investigative information" means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

(c) "Criminal intelligence information" and "criminal investigative information" shall not include:
1. The time, date, location, and nature of a reported crime.
2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h) or (o).
3. The time, date, and location of the incident and of the arrest.
4. The crime charged.
5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h) or (m), and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:
a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and
b. Impair the ability of a state attorney to locate or prosecute a codefendant.
6. Informations and indictments except as provided in s. 905.26.
(d) The word "active" shall have the following meaning:
1. Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
2. Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.
In addition, criminal intelligence and criminal investigative information shall be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" shall not apply to information in cases which are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

(4) "Criminal justice agency" means:
(a) Any law enforcement agency, court, or prosecutor;
(b) Any other agency charged by law with criminal law enforcement duties;
(c) Any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or
(d) The Department of Corrections.
(5) "Custodian of public records" means the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.
(6) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.
(7) "Duplicated copies" means new copies produced by duplicating, as defined in s. 283.30.
(8) "Exemption" means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), s. 286.011, or s. 24, Art. I of the State Constitution.
(9) "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.
(10) "Paratransit" has the same meaning as provided in s. 427.011.
(11) "Proprietary software" means data processing software that is protected by copyright or trade secret laws.
(12) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
(13) "Redact" means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.
(14) "Sensitive," for purposes of defining agency-produced software that is sensitive, means only those portions of data processing software, including the specifications and documentation, which are used to:
(a) Collect, process, store, and retrieve information that is exempt from s. 119.07(1);
(b) Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or
(c) Control and direct access authorizations and security measures for automated systems.
(15) "Utility" means a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.
History.—s. 1, ch. 67-125; s. 2, ch. 73-98; s. 3, ch. 75-225; ss. 1, 2, ch. 79-187; s. 8, ch. 85-53; s. 1, ch. 88-188; s. 5, ch. 93-404; s. 5, ch. 93-405; s. 5, ch. 95-207; s. 6, ch. 95-296; s. 10, ch. 95-398; s. 40, ch. 96-406; s. 2, ch. 97-90; s. 3, ch. 2004-335; s. 43, ch. 2005-251; s. 1, ch. 2008-57; s. 1, ch. 2016-95; s. 1, ch. 2017-11; s. 2, ch. 2018-2.

119.021 CUSTODIAL REQUIREMENTS; MAINTENANCE, PRESERVATION, AND RETENTION OF PUBLIC RECORDS

(1) Public records shall be maintained and preserved as follows:
(a) All public records should be kept in the buildings in which they are ordinarily used.
(b) Insofar as practicable, a custodian of public records of vital, permanent, or archival records shall keep them in

fireproof and waterproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use.
(c)1. Record books should be copied or repaired, renovated, or rebound if worn, mutilated, damaged, or difficult to read.
2. Whenever any state, county, or municipal records are in need of repair, restoration, or rebinding, the head of the concerned state agency, department, board, or commission; the board of county commissioners of such county; or the governing body of such municipality may authorize that such records be removed from the building or office in which such records are ordinarily kept for the length of time required to repair, restore, or rebind them.
3. Any public official who causes a record book to be copied shall attest and certify under oath that the copy is an accurate copy of the original book. The copy shall then have the force and effect of the original.
(2)(a) The Division of Library and Information Services of the Department of State shall adopt rules to establish retention schedules and a disposal process for public records.
(b) Each agency shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the division.
(c) Each public official shall systematically dispose of records no longer needed, subject to the consent of the records and information management program of the division in accordance with s. 257.36.
(d) The division may ascertain the condition of public records and shall give advice and assistance to public officials to solve problems related to the preservation, creation, filing, and public accessibility of public records in their custody. Public officials shall assist the division by preparing an inclusive inventory of categories of public records in their custody. The division shall establish a time period for the retention or disposal of each series of records. Upon the completion of the inventory and schedule, the division shall, subject to the availability of necessary space, staff, and other facilities for such purposes, make space available in its records center for the filing of semicurrent records so scheduled and in its archives for noncurrent records of permanent value, and shall render such other assistance as needed, including the microfilming of records so scheduled.
(3) Agency final orders rendered before July 1, 2015, that were indexed or listed pursuant to s. 120.53, and agency final orders rendered on or after July 1, 2015, that must be listed or copies of which must be transmitted to the Division of Administrative Hearings pursuant to s. 120.53, have continuing legal significance; therefore, notwithstanding any other provision of this chapter or any provision of chapter 257, each agency shall permanently maintain records of such orders pursuant to the applicable rules of the Department of State.
(4)(a) Whoever has custody of any public records shall deliver, at the expiration of his or her term of office, to his or her successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by him or her in the transaction of official business.
(b) Whoever is entitled to custody of public records shall demand them from any person having illegal possession of them, who must forthwith deliver the same to him or her. Any person unlawfully possessing public records must within 10 days deliver such records to the lawful custodian of public records unless just cause exists for failing to deliver such records.
History.—s. 2, ch. 67-125; s. 3, ch. 83-286; s. 753, ch. 95-147; s. 5, ch. 2004-335; s. 1, ch. 2015-155.

119.035 OFFICERS-ELECT

(1) It is the policy of this state that the provisions of this chapter apply to officers-elect upon their election to public office. Such officers-elect shall adopt and implement reasonable measures to ensure compliance with the public records obligations set forth in this chapter.
(2) Public records of an officer-elect shall be maintained in accordance with the policies and procedures of the public office to which the officer has been elected.
(3) If an officer-elect, individually or as part of a transition process, creates or uses an online or electronic communication or recordkeeping system, all public records maintained on such system shall be preserved so as not to impair the ability of the public to inspect or copy such public records.
(4) Upon taking the oath of office, the officer-elect shall, as soon as practicable, deliver to the person or persons responsible for records and information management in such office all public records kept or received in the transaction of official business during the period following election to public office.
(5) As used in this section, the term "officer-elect" means the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.
History.—s. 1, ch. 2012-25.

119.07 INSPECTION AND COPYING OF RECORDS; PHOTOGRAPHING PUBLIC RECORDS; FEES; EXEMPTIONS

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.
(b) A custodian of public records or a person having custody of public records may designate another officer or employee of the agency to permit the inspection and copying of public records, but must disclose the identity of the designee to the person requesting to inspect or copy public records.
(c) A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed.
(d) A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and copying.

(e) If the person who has custody of a public record contends that all or part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.
(f) If requested by the person seeking to inspect or copy the record, the custodian of public records shall state in writing and with particularity the reasons for the conclusion that the record is exempt or confidential.
(g) In any civil action in which an exemption to this section is asserted, if the exemption is alleged to exist under or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or (4)(c), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of s. 119.071(2)(c), an inspection in camera is discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection or copying as requested by the person seeking such access.
(h) Even if an assertion is made by the custodian of public records that a requested record is not a public record subject to public inspection or copying under this subsection, the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.
(i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve the custodian of public records of the duty to maintain the record as a public record if the record is in fact a public record subject to public inspection and copying under this subsection and does not otherwise excuse or exonerate the custodian of public records from any unauthorized or unlawful disposition of such record.
(2)(a) As an additional means of inspecting or copying public records, a custodian of public records may provide access to public records by remote electronic means, provided exempt or confidential information is not disclosed.
(b) The custodian of public records shall provide safeguards to protect the contents of public records from unauthorized remote electronic access or alteration and to prevent the disclosure or modification of those portions of public records which are exempt or confidential from subsection (1) or s. 24, Art. I of the State Constitution.
(c) Unless otherwise required by law, the custodian of public records may charge a fee for remote electronic access, granted under a contractual arrangement with a user, which fee may include the direct and indirect costs of providing such access. Fees for remote electronic access provided to the general public shall be in accordance with the provisions of this section.
(3)(a) Any person shall have the right of access to public records for the purpose of making photographs of the record while such record is in the possession, custody, and control of the custodian of public records.
(b) This subsection applies to the making of photographs in the conventional sense by use of a camera device to capture images of public records but excludes the duplication of microfilm in the possession of the clerk of the circuit court where a copy of the microfilm may be made available by the clerk.
(c) Photographing public records shall be done under the supervision of the custodian of public records, who may adopt and enforce reasonable rules governing the photographing of such records.
(d) Photographing of public records shall be done in the room where the public records are kept. If, in the judgment of the custodian of public records, this is impossible or impracticable, photographing shall be done in another room or place, as nearly adjacent as possible to the room where the public records are kept, to be determined by the custodian of public records. Where provision of another room or place for photographing is required, the expense of providing the same shall be paid by the person desiring to photograph the public record pursuant to paragraph (4)(e).
(4) The custodian of public records shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law. If a fee is not prescribed by law, the following fees are authorized:
(a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 81/2 inches;
2. No more than an additional 5 cents for each two-sided copy; and
3. For all other copies, the actual cost of duplication of the public record.
(b) The charge for copies of county maps or aerial photographs supplied by county constitutional officers may also include a reasonable charge for the labor and overhead associated with their duplication.
(c) An agency may charge up to $1 per copy for a certified copy of a public record.
(d) If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.
(e)1. Where provision of another room or place is necessary to photograph public records, the expense of providing the same shall be paid by the person desiring to photograph the public records.
2. The custodian of public records may charge the person making the photographs for supervision services at a rate of compensation to be agreed upon by the person desiring to make the photographs and the custodian of public records. If they fail to agree as to the appropriate charge, the charge shall be determined by the custodian of public records.
(5) When ballots are produced under this section for inspection or examination, no persons other than the supervisor

of elections or the supervisor's employees shall touch the ballots. If the ballots are being examined before the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

(6) An exemption contained in this chapter or in any other general or special law shall not limit the access of the Auditor General, the Office of Program Policy Analysis and Government Accountability, or any state, county, municipal, university, board of community college, school district, or special district internal auditor to public records when such person states in writing that such records are needed for a properly authorized audit, examination, or investigation. Such person shall maintain the exempt or confidential status of that public record and shall be subject to the same penalties as the custodian of that record for public disclosure of such record.

(7) An exemption from this section does not imply an exemption from s. 286.011. The exemption from s. 286.011 must be expressly provided.

(8) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal prosecution or in collateral postconviction proceedings. This section may not be used by any inmate as the basis for failing to timely litigate any postconviction action.

(9) After receiving a request to inspect or copy a record, an agency may not respond to that request by filing an action for declaratory relief against the requester to determine whether the record is a public record as defined by s. 119.011, or the status of the record as confidential or exempt from the provisions of subsection (1).

History.—s. 7, ch. 67-125; s. 4, ch. 75-225; s. 2, ch. 77-60; s. 2, ch. 77-75; s. 2, ch. 77-94; s. 2, ch. 77-156; s. 2, ch. 78-81; ss. 2, 4, 6, ch. 79-187; s. 2, ch. 80-273; s. 1, ch. 81-245; s. 1, ch. 82-95; s. 36, ch. 82-243; s. 6, ch. 83-215; s. 2, ch. 83-269; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-73; s. 1, ch. 85-86; s. 7, ch. 85-152; s. 1, ch. 85-177; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 87-399; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-29; s. 7, ch. 89-55; s. 1, ch. 89-80; s. 1, ch. 89-275; s. 2, ch. 89-283; s. 2, ch. 89-350; s. 1, ch. 89-531; s. 1, ch. 90-43; s. 63, ch. 90-136; s. 2, ch. 90-196; s. 4, ch. 90-211; s. 24, ch. 90-306; ss. 22, 26, ch. 90-344; s. 116, ch. 90-360; s. 78, ch. 91-45; s. 11, ch. 91-57; s. 1, ch. 91-71; s. 1, ch. 91-96; s. 1, ch. 91-130; s. 1, ch. 91-149; s. 1, ch. 91-219; s. 1, ch. 91-288; ss. 43, 45, ch. 92-58; s. 90, ch. 92-152; s. 59, ch. 92-289; s. 217, ch. 92-303; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 4, ch. 94-73; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 67, ch. 94-164; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, ch. 95-398; s. 1, ch. 95-399; s. 121, ch. 95-418; s. 3, ch. 96-178; s. 1, ch. 96-230; s. 5, ch. 96-268; s. 4, ch. 96-290; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 97-185; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-255; s. 1, ch. 98-259; s. 128, ch. 98-403; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 54, ch. 2000-349; s. 1, ch. 2001-87; s. 1, ch. 2001-108; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 33, ch. 2001-266; s. 1, ch. 2001-364; s. 1, ch. 2002-67; ss. 1, 3, ch. 2002-257; s. 2, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-100; ss. 1, 2, ch. 2003-110; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 2, ch. 2004-62; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; ss. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, ch. 2005-251; s. 74, ch. 2005-277; s. 1, ch. 2007-39; ss. 2, 4, ch. 2007-251; s. 1, ch. 2021-173.

119.0701 CONTRACTS; PUBLIC RECORDS; REQUEST FOR CONTRACTOR RECORDS; CIVIL ACTION

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) "Public agency" means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) CONTRACT REQUIREMENTS.—In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016, must include:

(a) The following statement, in substantially the following form, identifying the contact information of the public agency's custodian of public records in at least 14-point boldfaced type:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address).

(b) A provision that requires the contractor to comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.

2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the

contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

(3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

(a) A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

(b) If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

(c) A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under s. 119.10.

(4) CIVIL ACTION.—

(a) If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and

2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

(b) A notice complies with subparagraph (a)2. if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(c) A contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

History.—s. 1, ch. 2013-154; s. 1, ch. 2016-20.

119.071 GENERAL EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS

(1) AGENCY ADMINISTRATION.—

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.

(b)1. For purposes of this paragraph, "competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.

2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

(c) Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. 27.7001, the Attorney General's office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.

2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

(e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. 119.07(1).

(f) Agency-produced data processing software that is sensitive is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive does not prohibit an agency head from sharing or exchanging such software with another public agency.

(g)1. United States Census Bureau address information, including maps showing structure location points, agency records that verify addresses, and agency records that identify address errors or omissions, which is held by an agency pursuant to the Local Update of Census Addresses Program authorized under 13 U.S.C. s. 16, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Such information may be released to another agency or governmental entity in the furtherance of its duties and responsibilities under the Local Update of Census Addresses Program.

3. An agency performing duties and responsibilities under the Local Update of Census Addresses Program shall have access to any other confidential or exempt information held by another agency if such access is necessary in order to perform its duties and responsibilities under the program.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) AGENCY INVESTIGATIONS.—

(a) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Whenever criminal intelligence information or criminal investigative information held by a non-Florida criminal justice agency is available to a Florida criminal justice agency only on a confidential or similarly restricted basis, the Florida criminal justice agency may obtain and use such information in accordance with the conditions imposed by the providing agency.

(c)1. Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2.a. A request made by a law enforcement agency to inspect or copy a public record that is in the custody of another agency and the custodian's response to the request, and any information that would identify whether a law enforcement agency has requested or received that public record are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, during the period in which the information constitutes active criminal intelligence information or active criminal investigative information.

b. The law enforcement agency that made the request to inspect or copy a public record shall give notice to the custodial agency when the criminal intelligence information or criminal investigative information is no longer active so that the request made by the law enforcement agency, the custodian's response to the request, and information that would identify whether the law enforcement agency had requested or received that public record are available to the public.

c. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption be applied to requests for information received before, on, or after the effective date of this paragraph.

(d) Any information revealing surveillance techniques or procedures or personnel is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any comprehensive inventory of state and local law enforcement resources compiled pursuant to part I, chapter 23, and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to an emergency, as defined in s. 252.34, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and unavailable for inspection, except by personnel authorized by a state or local law enforcement agency, the office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Division of Emergency Management as having an official need for access to the inventory or comprehensive policies or plans.

(e) Any information revealing the substance of a confession of a person arrested is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

(f) Any information revealing the identity of a confidential informant or a confidential source is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(g)1. All complaints and other records in the custody of any agency which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring practices, position classifications, salary, benefits, discipline, discharge, employee performance, evaluation, or other related activities are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding.

a. This exemption does not affect any function or activity of the Florida Commission on Human Relations.

b. Any state or federal agency that is authorized to have access to such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties.

2. If an alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(h)1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Any information that reveals the identity of the victim of the crime of child abuse as defined by chapter 827 or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking proscribed in s. 787.06(3)(a).

b. Any information that may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense

proscribed in s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.

c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. 810.145, chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim.

2. Criminal investigative information and criminal intelligence information made confidential and exempt under this paragraph may be disclosed by a law enforcement agency:

a. In the furtherance of its official duties and responsibilities.

b. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

c. To another governmental agency in the furtherance of its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

(i) Any criminal intelligence information or criminal investigative information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(j)1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(k) A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or

2. Concluded the investigation with a finding to proceed with disciplinary action or file charges.

(l)1. As used in this paragraph, the term:

a. "Body camera" means a portable electronic recording device that is worn on a law enforcement officer's body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.

b. "Law enforcement officer" has the same meaning as provided in s. 943.10.

c. "Personal representative" means a parent, a court-appointed guardian, an attorney, or an agent of, or a person holding a power of attorney for, a person recorded by a body camera. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney or agent; or the parent or guardian of a surviving minor child of the deceased. An agent must possess written authorization of the recorded person to act on his or her behalf.

2. A body camera recording, or a portion thereof, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the recording:

a. Is taken within the interior of a private residence;

b. Is taken within the interior of a facility that offers health care, mental health care, or social services; or

c. Is taken in a place that a reasonable person would expect to be private.

3. Notwithstanding subparagraph 2., a body camera recording, or a portion thereof, may be disclosed by a law enforcement agency:
a. In furtherance of its official duties and responsibilities; or
b. To another governmental agency in the furtherance of its official duties and responsibilities.
4. Notwithstanding subparagraph 2., a body camera recording, or a portion thereof, shall be disclosed by a law enforcement agency:
a. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;
b. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;
c. To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.
d. Pursuant to a court order.
(I) In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court shall consider whether:
(A) Disclosure is necessary to advance a compelling interest;
(B) The recording contains information that is otherwise exempt or confidential and exempt under the law;
(C) The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;
(D) Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
(E) Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;
(F) Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;
(G) The recording could be redacted to protect privacy interests; and
(H) There is good cause to disclose all or portions of a recording.
(II) In any proceeding regarding the disclosure of a body camera recording, the law enforcement agency that made the recording shall be given reasonable notice of hearings and shall be given an opportunity to participate.
5. A law enforcement agency must retain a body camera recording for at least 90 days.
6. The exemption provided in subparagraph 2. applies retroactively.
7. This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption shall continue to be exempt or confidential and exempt.
(m) Criminal intelligence information or criminal investigative information that reveals the personal identifying information of a witness to a murder, as described in s. 782.04, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 2 years after the date on which the murder is observed by the witness. A criminal justice agency may disclose such information:
1. In the furtherance of its official duties and responsibilities.
2. To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered.
3. To another governmental agency for use in the performance of its official duties and responsibilities.
4. To the parties in a pending criminal prosecution as required by law.
(n) Personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such information identifies that person as an alleged victim or as a victim of sexual harassment. Confidentiality may be waived in writing by the alleged victim or the victim. Such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.
(o) The address of a victim of an incident of mass violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this paragraph, the term "incident of mass violence" means an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. For purposes of this paragraph, the term "victim" means a person killed or injured during an incident of mass violence, not including the perpetrator. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.
(p)1. As used in this paragraph, the term:
a. "Killing of a law enforcement officer who was acting in accordance with his or her official duties" means all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.
b. "Killing of a victim of mass violence" means events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence.
2. A photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, the surviving parents shall have access to such records. If there is no surviving

spouse or parent, the adult children shall have access to such records. Nothing in this paragraph precludes a surviving spouse, parent, or adult child of the victim from sharing or publicly releasing such photograph or video or audio recording.

3.a. The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing an agent to obtain such records.

b. A local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may view or copy a photograph or video recording or may listen to or copy an audio recording of the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, and, unless otherwise required in the performance of its duties, the identity of the deceased shall remain confidential and exempt.

c. The custodian of the record, or his or her designee, may not permit any other person to view or copy such photograph or video recording or listen to or copy such audio recording without a court order.

4.a. The court, upon a showing of good cause, may issue an order authorizing any person to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, or to listen to or copy an audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, and may prescribe any restrictions or stipulations that the court deems appropriate.

b. In determining good cause, the court shall consider:

(I) Whether such disclosure is necessary for the public evaluation of governmental performance;

(II) The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and

(III) The availability of similar information in other public records, regardless of form.

c. In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence must be under the direct supervision of the custodian of the record or his or her designee.

5. A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, or to listen to or copy any such audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, such notice must be given to the parents of the deceased and, if the deceased has no surviving parent, to the adult children of the deceased.

6.a. Any custodian of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence who willfully and knowingly violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. Any person who willfully and knowingly violates a court order issued pursuant to this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

c. A criminal or administrative proceeding is exempt from this paragraph but, unless otherwise exempted, is subject to all other provisions of chapter 119; however, this paragraph does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recording in the manner prescribed in this paragraph.

7. The exemption in this paragraph shall be given retroactive application and shall apply to all photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence, regardless of whether the killing of the person occurred before, on, or after May 23, 2019. However, nothing in this paragraph is intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties or the killing of a victim of mass violence.

8. This paragraph applies only to such photographs and video and audio recordings held by an agency.

9. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

(q)1. As used in this paragraph, the term:

a. "Conviction integrity unit" means a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

b. "Conviction integrity unit reinvestigation information" means information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The term does not include:

(I) Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding.

(II) Petitions by applicants to the conviction integrity unit.

(III) Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from this section.

2. Conviction integrity unit reinvestigation information is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This paragraph is subject to the Open

Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) SECURITY AND FIRESAFETY.—

(a)1. As used in this paragraph, the term "security or firesafety system plan" includes all:

a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;

b. Threat assessments conducted by any agency or any private entity;

c. Threat response plans;

d. Emergency evacuation plans;

e. Sheltering arrangements; or

f. Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

2. A security or firesafety system plan or portion thereof for:

a. Any property owned by or leased to the state or any of its political subdivisions; or

b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security or firesafety system plans held by an agency before, on, or after the effective date of this paragraph. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

3. Information made confidential and exempt by this paragraph may be disclosed:

a. To the property owner or leaseholder;

b. In furtherance of the official duties and responsibilities of the agency holding the information;

c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

d. Upon a showing of good cause before a court of competent jurisdiction.

(b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:

a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;

b. To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or

c. Upon a showing of good cause before a court of competent jurisdiction.

4. The entities or persons receiving such information shall maintain the exempt status of the information.

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development, which records are held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction.

4. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

5. As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.
d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:
(I) Encompasses more than 400,000 square feet of gross floor area; or
(II) Provides parking spaces for more than 2,500 motor vehicles.
e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.
f. "Health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.
g. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.
6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.
(d)1. Information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if release of such information would reveal:
a. The design, development, construction, deployment, and operation of network facilities;
b. Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
c. The features, functions, and capabilities of network infrastructure and facilities;
d. The features, functions, and capabilities of network services provided to first responders, as defined in s. 112.1815, and other network users;
e. The design, features, functions, and capabilities of network devices provided to first responders and other network users; or
f. Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.
2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.
(e)1.a. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
b. Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency, and geographical maps indicating actual or proposed locations of 911, E911, or public safety radio communication system infrastructure or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency, before, on, or after the effective date of this act.
3. Information made exempt by this paragraph may be disclosed:
a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
b. To a licensed architect, engineer, or contractor who is performing work on or related to the 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency; or
c. Upon a showing of good cause before a court of competent jurisdiction.
4. The entities or persons receiving such information must maintain the exempt status of the information.
5. For purposes of this paragraph, the term "public safety radio" is defined as the means of communication between and among 911 public safety answering points, dispatchers, and first responder agencies using those portions of the radio frequency spectrum designated by the Federal Communications Commission under 47 C.F.R. part 90 for public safety purposes.
6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.
(4) AGENCY PERSONNEL INFORMATION.—
(a)1. The social security numbers of all current and former agency employees which are held by the employing agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
2. The social security numbers of current and former agency employees may be disclosed by the employing agency:
a. If disclosure of the social security number is expressly required by federal or state law or a court order.
b. To another agency or governmental entity if disclosure of the social security number is necessary for the receiving agency or entity to perform its duties and responsibilities.
c. If the current or former agency employee expressly consents in writing to the disclosure of his or her social security number.

(b)1. Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission or pursuant to court order.

2.a. Personal identifying information of a dependent child of a current or former officer or employee of an agency, which dependent child is insured by an agency group insurance plan, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this exemption, "dependent child" has the same meaning as in s. 409.2554.

b. This exemption is remedial in nature and applies to such personal identifying information held by an agency before, on, or after the effective date of this exemption.

(c) Any information revealing undercover personnel of any criminal justice agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care

facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's

file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

(e)1. As used in this paragraph, the term "law enforcement geolocation information" means information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of a law enforcement officer or a law enforcement vehicle.

2. Law enforcement geolocation information held by a law enforcement agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by an agency before, on, or after the effective date of the exemption. This exemption does not apply to uniform traffic citations, crash reports, homicide reports, arrest reports, incident reports, or any other official reports issued by an agency which contain law enforcement geolocation information.

3. A law enforcement agency shall disclose law enforcement geolocation information in the following instances:

a. Upon a request from a state or federal law enforcement agency;

b. When a person files a petition with the circuit court in the jurisdiction where the agency having custody of the requested law enforcement geolocation information is located specifying the reasons for requesting such information and the court, upon a showing of good cause, issues an order authorizing the release of the law enforcement geolocation information. In all cases in which the court releases law enforcement geolocation information under this sub-subparagraph, such information must be viewed or copied under the direct supervision of the custodian of the record or his or her designee; or

c. When law enforcement geolocation information is requested for use in a criminal, civil, or administrative proceeding. This sub-subparagraph does not prohibit a court in such a criminal, civil, or administrative proceeding, upon a showing of good cause, from restricting or otherwise controlling the disclosure of such information.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

(5) OTHER PERSONAL INFORMATION.—

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. An agency shall identify in writing the specific federal or state law governing the collection, use, or release of social security numbers for each purpose for which the agency collects the social security number, including any authorized exceptions that apply to such collection, use, or release. Each agency shall ensure that the collection, use, or release of social security numbers complies with the specific applicable federal or state law.

c. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2. The written statement also shall state whether collection of the individual's social security number is authorized or mandatory under federal or state law.

4. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption. This exemption does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemption for social security numbers existing prior to May 13, 2002, or created thereafter.

6. Social security numbers held by an agency may be disclosed if any of the following apply:

a. The disclosure of the social security number is expressly required by federal or state law or a court order.

b. The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.

c. The individual expressly consents in writing to the disclosure of his or her social security number.

d. The disclosure of the social security number is made to comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or Presidential Executive Order 13224.

e. The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., provided that the authorized

commercial entity complies with the requirements of this paragraph.

f. The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or his or her dependents.

g. The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, deferred compensation plan, or defined contribution plan.

h. The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the accuracy of personal information received by a commercial entity in the normal course of its business, including identification or prevention of fraud or matching, verifying, or retrieving information. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity, including the identification of any specific federal or state law that permits such use.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding $500 per violation.

9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

(c)1. For purposes of this paragraph, the term:

a. "Child" means any person younger than 18 years of age.

b. "Government-sponsored recreation program" means a program for which an agency assumes responsibility for a child participating in that program, including, but not limited to, after-school programs, athletic programs, nature programs, summer camps, or other recreational programs.

2. Information that would identify or locate a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Information that would identify or locate a parent or guardian of a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

4. This exemption applies to records held before, on, or after the effective date of this exemption.

(d) All records supplied by a telecommunications company, as defined by s. 364.02, to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(f)1. The following information held by the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Medical history records and information related to health or property insurance provided by an applicant for or a participant in a federal, state, or local housing assistance program.

b. Property photographs and personal identifying information of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance for a presidentially declared disaster.

2. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs.

3. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

4. Sub-subparagraph 1.b. is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

(g) Biometric identification information held by an agency before, on, or after the effective date of this exemption is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this paragraph, the term "biometric identification information" means:
1. Any record of friction ridge detail;
2. Fingerprints;
3. Palm prints; and
4. Footprints.
(h)1. Personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
2. This exemption applies to personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency before, on, or after the effective date of this exemption.
3. Confidential and exempt personal identifying information shall be disclosed:
a. With the express written consent of the applicant or recipient or the legally authorized representative of such applicant or recipient;
b. In a medical emergency, but only to the extent that is necessary to protect the health or life of the applicant or recipient;
c. By court order upon a showing of good cause; or
d. To another agency in the performance of its duties and responsibilities.
(i)1. For purposes of this paragraph, "identification and location information" means the:
a. Home address, telephone number, and photograph of a current or former United States attorney, assistant United States attorney, judge of the United States Courts of Appeal, United States district judge, or United States magistrate;
b. Home address, telephone number, photograph, and place of employment of the spouse or child of such attorney, judge, or magistrate; and
c. Name and location of the school or day care facility attended by the child of such attorney, judge, or magistrate.
2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such attorney, judge, or magistrate submits to an agency that has custody of the identification and location information:
a. A written request to exempt such information from public disclosure; and
b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.
(j) Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information held by an agency before, on, or after the effective date of this exemption.
History.—s. 4, ch. 75-225; ss. 2, 3, 4, 6, ch. 79-187; s. 1, ch. 82-95; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-86; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-80; s. 63, ch. 90-136; s. 4, ch. 90-211; s. 78, ch. 91-45; s. 1, ch. 91-96; s. 1, ch. 91-149; s. 90, ch. 92-152; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 20, 25, 29, 31, 32, 33, 34, ch. 95-398; s. 3, ch. 96-178; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-259; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 1, ch. 2001-361; s. 1, ch. 2001-364; s. 1, ch. 2002-67; ss. 1, 3, ch. 2002-256; s. 1, ch. 2002-257; ss. 2, 3, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-16; s. 1, ch. 2003-100; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; s. 4, ch. 2005-213; s. 41, ch. 2005-236; ss. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, ch. 2005-251; s. 14, ch. 2006-1; s. 1, ch. 2006-158; s. 1, ch. 2006-180; s. 1, ch. 2006-181; s. 1, ch. 2006-211; s. 1, ch. 2006-212; s. 13, ch. 2006-224; s. 1, ch. 2006-284; s. 1, ch. 2006-285; s. 1, ch. 2007-93; s. 1, ch. 2007-95; s. 1, ch. 2007-250; s. 1, ch. 2007-251; s. 1, ch. 2008-41; s. 2, ch. 2008-57; s. 1, ch. 2008-145; ss. 1, 3, ch. 2008-234; s. 1, ch. 2009-104; ss. 1, 2, ch. 2009-150; s. 1, ch. 2009-169; ss. 1, 2, ch. 2009-235; s. 1, ch. 2009-237; s. 1, ch. 2010-71; s. 1, ch. 2010-171; s. 1, ch. 2011-83; s. 1, ch. 2011-85; s. 1, ch. 2011-115; s. 1, ch. 2011-140; s. 48, ch. 2011-142; s. 1, ch. 2011-201; s. 1, ch. 2011-202; s. 1, ch. 2012-149; s. 1, ch. 2012-214; s. 1, ch. 2012-216; s. 1, ch. 2013-69; s. 119, ch. 2013-183; s. 1, ch. 2013-220; s. 1, ch. 2013-243; s. 1, ch. 2013-248; s. 1, ch. 2014-72; s. 1, ch. 2014-94; s. 1, ch. 2014-105; s. 1, ch. 2014-172; s. 1, ch. 2015-37; s. 1, ch. 2015-41; s. 1, ch. 2015-86; s. 1, ch. 2015-146; s. 1, ch. 2016-6; s. 1, ch. 2016-27; s. 1, ch. 2016-49; s. 1, ch. 2016-159; s. 1, ch. 2016-164; s. 1, ch. 2016-178; s. 1, ch. 2016-214; s. 2, ch. 2017-11; s. 1, ch. 2017-53; s. 1, ch. 2017-66; s. 1, ch. 2017-96; s. 1, ch. 2017-103; s. 1, ch. 2018-2; s. 1, ch. 2018-53; s. 1, ch. 2018-60; s. 1, ch. 2018-64; s. 1, ch. 2018-77; s. 8, ch. 2018-110; s. 1, ch. 2018-117; s. 1, ch. 2018-146; s. 1, ch. 2018-147; s. 26, ch. 2019-3; s. 1, ch. 2019-12; s. 1, ch. 2019-28; ss. 1, 3, ch. 2019-46; s. 1, ch. 2020-13; s. 1, ch. 2020-34; s. 1, ch. 2020-170; s. 1, ch. 2020-183; s. 1, ch. 2021-48; s. 1, ch. 2021-52; s. 1, ch. 2021-105; s. 30, ch. 2021-170; s. 1, ch. 2021-182; s. 3, ch. 2021-215; s. 1, ch. 2022-88; s. 1, ch. 2022-107; s. 1, ch. 2022-172.
Note.—
A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."
B. Portions former ss. 119.07(6), 119.072, and 119.0721; subparagraph (2)(g)1. former s. 119.0711(1); paragraph (2)(p) former s. 406.136.

119.0711 EXECUTIVE BRANCH AGENCY EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS

When an agency of the executive branch of state government seeks to acquire real property by purchase or through the exercise of the power of eminent domain, all appraisals, other reports relating to value, offers, and counteroffers must be in writing and are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until execution of a valid option contract

or a written offer to sell that has been conditionally accepted by the agency, at which time the exemption shall expire. The agency shall not finally accept the offer for a period of 30 days in order to allow public review of the transaction. The agency may give conditional acceptance to any option or offer subject only to final acceptance by the agency after the 30-day review period. If a valid option contract is not executed, or if a written offer to sell is not conditionally accepted by the agency, then the exemption shall expire at the conclusion of the condemnation litigation of the subject property. An agency of the executive branch may exempt title information, including names and addresses of property owners whose property is subject to acquisition by purchase or through the exercise of the power of eminent domain, from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the same extent as appraisals, other reports relating to value, offers, and counteroffers. For the purpose of this subsection, the term "option contract" means an agreement of an agency of the executive branch of state government to purchase real property subject to final agency approval. This subsection has no application to other exemptions from s. 119.07(1) which are contained in other provisions of law and shall not be construed to be an express or implied repeal thereof.

History.—s. 1, ch. 85-18; s. 1, ch. 86-21; s. 1, ch. 89-29; ss. 19, 25, ch. 95-398; s. 7, ch. 2004-335; ss. 30, 31, ch. 2005-251; s. 1, ch. 2008-145.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(n), (q).

119.0712 EXECUTIVE BRANCH AGENCY-SPECIFIC EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS

(1) DEPARTMENT OF HEALTH.—All personal identifying information contained in records relating to an individual's personal health or eligibility for health-related services held by the Department of Health is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in this subsection. Information made confidential and exempt by this subsection shall be disclosed:

(a) With the express written consent of the individual or the individual's legally authorized representative.

(b) In a medical emergency, but only to the extent necessary to protect the health or life of the individual.

(c) By court order upon a showing of good cause.

(d) To a health research entity, if the entity seeks the records or data pursuant to a research protocol approved by the department, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the department, the fee provisions of which are consistent with s. 119.07(4). The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement must restrict the release of any information that would permit the identification of persons, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the department.

(2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(a) For purposes of this subsection, the term "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles.

(b) Personal information, including highly restricted personal information as defined in 18 U.S.C. s. 2725, contained in a motor vehicle record is confidential pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Such information may be released only as authorized by that act; however, information received pursuant to that act may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.

(c) E-mail addresses collected by the Department of Highway Safety and Motor Vehicles pursuant to s. 319.40(3), s. 320.95(2), or s. 322.08(10) are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies retroactively.

(d)1. Emergency contact information contained in a motor vehicle record is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Without the express consent of the person to whom such emergency contact information applies, the emergency contact information contained in a motor vehicle record may be released only to:

a. Law enforcement agencies for purposes of contacting those listed in the event of an emergency.

b. A receiving facility, hospital, or licensed detoxification or addictions receiving facility pursuant to s. 394.463(2)(a) or s. 397.6772(1)(a) for the sole purpose of informing a patient's emergency contacts of the patient's whereabouts.

(e) Any person who uses or releases any information contained in the Driver and Vehicle Information Database for a purpose not specifically authorized by law commits a noncriminal infraction, punishable by a fine not exceeding $2,000.

(f)1. Secure login credentials held by the Department of Highway Safety and Motor Vehicles are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to secure login credentials held by the department before, on, or after the effective date of the exemption. For purposes of this subparagraph, the term "secure login credentials" means information held by the department for purposes of authenticating a user logging into a user account on a computer, a computer system, a computer network, or an electronic device; an online user account accessible over the Internet, whether through a mobile device, a website, or any other electronic means; or information used for authentication or password recovery.

2. Internet protocol addresses, geolocation data, and other information held by the Department of Highway Safety and

Motor Vehicles which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the department before, on, or after the effective date of the exemption. For purposes of this subparagraph, the term "public-facing portal" means a web portal or computer application accessible by the public over the Internet, whether through a mobile device, website, or other electronic means, which is established for administering chapter 319, chapter 320, chapter 322, chapter 328, or any other provision of law conferring duties upon the department.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) OFFICE OF FINANCIAL REGULATION.—The following information held by the Office of Financial Regulation before, on, or after July 1, 2011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Any information received from another state or federal regulatory, administrative, or criminal justice agency that is otherwise confidential or exempt pursuant to the laws of that state or pursuant to federal law.

(b) Any information that is received or developed by the office as part of a joint or multiagency examination or investigation with another state or federal regulatory, administrative, or criminal justice agency. The office may obtain and use the information in accordance with the conditions imposed by the joint or multiagency agreement. This exemption does not apply to information obtained or developed by the office that would otherwise be available for public inspection if the office had conducted an independent examination or investigation under Florida law.

(4) DEPARTMENT OF MILITARY AFFAIRS.—Information held by the Department of Military Affairs that is stored in a United States Department of Defense system of records, transmitted using a United States Department of Defense network or communications device, or pertaining to the United States Department of Defense, pursuant to 10 U.S.C. s. 394, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not made exempt by this subsection may be disclosed only after the department makes any redactions in accordance with applicable federal and state laws. This exemption applies to information made exempt by this subsection which is held by the department before, on, or after the effective date of the exemption. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 97-185; s. 1, ch. 2001-108; ss. 1, 2, ch. 2004-62; s. 7, ch. 2004-335; ss. 32, 33, ch. 2005-251; s. 1, ch. 2006-199; s. 1, ch. 2007-94; ss. 1, 2, ch. 2009-153; s. 1, ch. 2011-88; s. 7, ch. 2013-18; s. 1, ch. 2015-32; s. 9, ch. 2016-10; s. 1, ch. 2016-28; s. 1, ch. 2020-48; s. 1, ch. 2021-86; s. 1, ch. 2021-129; s. 1, ch. 2021-236; s. 1, ch. 2022-36.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(aa), (cc).

119.0713 LOCAL GOVERNMENT AGENCY EXEMPTIONS FROM INSPECTION OR COPYING OF PUBLIC RECORDS

(1) All complaints and other records in the custody of any unit of local government which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, marital status, sale or rental of housing, the provision of brokerage services, or the financing of housing are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding. This provision does not affect any function or activity of the Florida Commission on Human Relations. Any state or federal agency that is authorized to access such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties. This subsection does not modify or repeal any special or local act.

(2)(a) As used in this subsection, the term "unit of local government" means a county, municipality, special district, local agency, authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law.

(b) The audit report of an internal auditor and the investigative report of the inspector general prepared for or on behalf of a unit of local government becomes a public record when the audit or investigation becomes final. An audit or investigation becomes final when the audit report or investigative report is presented to the unit of local government. Audit workpapers and notes related to such audit and information received, produced, or derived from an investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the audit or investigation is complete and the audit report becomes final or when the investigation is no longer active. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(3) Any data, record, or document used directly or solely by a municipally owned utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption commences when a municipal utility identifies in writing a specific bid to which it intends to respond. This exemption no longer applies after the contract for sale, distribution, or use of the service, commodity, or tangible personal property is executed, a decision is made not to execute such contract, or the project is no longer under active consideration. The exemption in this subsection includes the bid documents actually furnished in response to the request for bids. However, the exemption for the bid documents submitted

no longer applies after the bids are opened by the customer or prospective customer.

(4)(a) Proprietary confidential business information means information, regardless of form or characteristics, which is held by an electric utility that is subject to this chapter, is intended to be and is treated by the entity that provided the information to the electric utility as private in that the disclosure of the information would cause harm to the entity providing the information or its business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes:

1. Trade secrets, as defined in s. 688.002.
2. Internal auditing controls and reports of internal auditors.
3. Security measures, systems, or procedures.
4. Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the electric utility to contract for goods or services on favorable terms.
5. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

(b) Proprietary confidential business information held by an electric utility that is subject to this chapter in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d) or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) All proprietary confidential business information described in paragraph (b) shall be retained for 1 year after the due diligence review has been completed and the electric utility has decided whether or not to participate in the project.

(5)(a) The following information held by a utility owned or operated by a unit of local government is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
2. Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.
3. Customer meter-derived data and billing information in increments less than one billing cycle.

(b) This exemption applies to such information held by a utility owned or operated by a unit of local government before, on, or after the effective date of this exemption.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 86-21; s. 24, ch. 95-398; s. 1, ch. 95-399; s. 1, ch. 96-230; s. 1, ch. 2001-87; ss. 1, 2, ch. 2003-110; s. 7, ch. 2004-335; ss. 34, 35, 36, ch. 2005-251; ss. 3, 5, ch. 2008-57; s. 1, ch. 2011-87; s. 1, ch. 2013-143; s. 1, ch. 2016-47; s. 2, ch. 2016-95; s. 1, ch. 2018-120; s. 1, ch. 2019-38.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(p), (y), (z), (hh).

119.0714 COURT FILES; COURT RECORDS; OFFICIAL RECORDS

(1) COURT FILES.—Nothing in this chapter shall be construed to exempt from s. 119.07(1) a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(a) A public record that was prepared by an agency attorney or prepared at the attorney's express direction as provided in s. 119.071(1)(d).

(b) Data processing software as provided in s. 119.071(1)(f).

(c) Any information revealing surveillance techniques or procedures or personnel as provided in s. 119.071(2)(d).

(d) Any comprehensive inventory of state and local law enforcement resources, and any comprehensive policies or plans compiled by a criminal justice agency, as provided in s. 119.071(2)(d).

(e) Any information revealing the substance of a confession of a person arrested as provided in s. 119.071(2)(e).

(f) Any information revealing the identity of a confidential informant or confidential source as provided in s. 119.071(2)(f).

(g) Any information revealing undercover personnel of any criminal justice agency as provided in s. 119.071(4)(c).

(h) Criminal intelligence information or criminal investigative information that is confidential and exempt as provided in s. 119.071(2)(h) or (m).

(i) Social security numbers as provided in s. 119.071(5)(a).

(j) Bank account numbers and debit, charge, and credit card numbers as provided in s. 119.071(5)(b).

(k)1. A petition, and the contents thereof, for an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking that is dismissed without a hearing, dismissed at an ex parte hearing due to failure to state a claim or lack of jurisdiction, or dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued on or after July 1, 2017, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. A petition, and the contents thereof, for an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking that is dismissed without a hearing, dismissed at an ex parte hearing due to failure to state a claim or lack of jurisdiction, or dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued before July 1, 2017, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution only upon request by an individual named in the petition as a respondent. The request must be in the form of a signed, legibly written request specifying the case name, case

number, document heading, and page number. The request must be delivered by mail, facsimile, or electronic transmission or in person to the clerk of the court. A fee may not be charged for such request.

3. Any information that can be used to identify a petitioner or respondent in a petition for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking, and any affidavits, notice of hearing, and temporary injunction, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the respondent has been personally served with a copy of the petition for injunction, affidavits, notice of hearing, and temporary injunction.

(l) Personal identifying information and annuity contract numbers of a payee of a structured settlement as defined in s. 626.99296(2) and the names of family members, dependents, and beneficiaries of such payee contained within a court file relating to a proceeding for the approval of the transfer of structured settlement payment rights under s. 626.99296. Such information shall remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution during the pendency of the transfer proceeding and for 6 months after the final court order approving, or not approving, the transferee's application. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) COURT RECORDS.—

(a) Until January 1, 2012, if a social security number or a bank account, debit, charge, or credit card number is included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

(b) A request for redaction must be a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(c) A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

(d) The clerk of the court has no liability for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court records filed on or before January 1, 2012.

(e)1. The clerk of the court must keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the clerks of the court with respect to court records.

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the court record that contains the exempt information.

(g) The clerk of the court is not liable for the release of information that is required by the Florida Rules of Judicial Administration to be identified by the filer as confidential if the filer fails to make the required identification of the confidential information to the clerk of the court.

(3) OFFICIAL RECORDS.—A person who prepares or files a record for recording in the official records as provided in chapter 28 may not include in that record a social security number or a bank account, debit, charge, or credit card number unless otherwise expressly required by law.

(a) If a social security number or a bank account, debit, charge, or credit card number is included in an official record, such number may be made available as part of the official records available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

1. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder must use his or her best effort, as provided in paragraph (d), to keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and to keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the county recorder with respect to official records.

(b) The holder of a social security number or a bank account, debit, charge, or credit card number, or the holder's attorney or legal guardian, may request that a county recorder redact from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the public, his or her social security number or bank account, debit, charge, or credit card number contained in that official record.

1. A request for redaction must be a signed, legibly written request and must be delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the record that contains the number to be redacted.

2. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

3. A fee may not be charged for redacting a social security number or a bank account, debit, charge, or credit card number.

(c) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing, and shall immediately and conspicuously post on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records, a notice stating, in substantially similar form, the following:

1. On or after October 1, 2002, any person preparing or filing a record for recordation in the official records may not include a social security number or a bank account, debit, charge, or credit card number in such document unless required by law.

2. Any person has a right to request a county recorder to remove from an image or copy of an official record placed on a

county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. A fee may not be charged for the redaction of a social security number pursuant to such a request.

(d) If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction is deemed to be the best effort in performing the redaction and is deemed in compliance with the requirements of this subsection.

(e) The county recorder is not liable for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, filed with the county recorder.

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the official record that contains the exempt information.

History.—s. 2, ch. 79-187; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-86; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 26, ch. 90-344; s. 36, ch. 95-398; s. 7, ch. 2004-335; s. 2, ch. 2005-251; s. 2, ch. 2007-251; s. 5, ch. 2008-234; s. 2, ch. 2009-237; s. 23, ch. 2010-162; s. 4, ch. 2011-83; s. 7, ch. 2013-109; s. 3, ch. 2017-11; s. 1, ch. 2017-14; s. 1, ch. 2017-133; s. 1, ch. 2019-39; s. 1, ch. 2022-125.

Note.—Subsection (1) former s. 119.07(6).

119.0715 TRADE SECRETS HELD BY AN AGENCY

(1) DEFINITION.—"Trade secret" has the same meaning as in s. 688.002.

(2) PUBLIC RECORD EXEMPTION.—A trade secret held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) AGENCY ACCESS.—An agency may disclose a trade secret to an officer or employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.

(4) LIABILITY.—An agency employee who, while acting in good faith and in the performance of his or her duties, releases a record containing a trade secret pursuant to this chapter is not liable, civilly or criminally, for such release.

(5) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2021-223.

119.0725 AGENCY CYBERSECURITY INFORMATION; PUBLIC RECORDS EXEMPTION; PUBLIC MEETINGS EXEMPTION

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

(a) "Breach" means unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of an agency does not constitute a breach, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.

(b) "Critical infrastructure" means existing and proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

(c) "Cybersecurity" has the same meaning as in s. 282.0041.

(d) "Data" has the same meaning as in s. 282.0041.

(e) "Incident" means a violation or imminent threat of violation, whether such violation is accidental or deliberate, of information technology resources, security, policies, or practices. As used in this paragraph, the term "imminent threat of violation" means a situation in which the agency has a factual basis for believing that a specific incident is about to occur.

(f) "Information technology" has the same meaning as in s. 282.0041.

(g) "Operational technology" means the hardware and software that cause or detect a change through the direct monitoring or control of physical devices, systems, processes, or events.

(2) The following information held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.

(b) Information relating to critical infrastructure.

(c) Cybersecurity incident information reported pursuant to s. 282.318 or s. 282.3185.

(d) Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

1. Data or information, whether physical or virtual; or

2. Information technology resources, which include an agency's existing or proposed information technology systems.

(3) Any portion of a meeting that would reveal information made confidential and exempt under subsection (2) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. An exempt portion of a meeting may not be off the record and must be recorded and transcribed. The recording and transcript are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) The public records exemptions contained in this section apply to information held by an agency before, on, or after July 1, 2022.

(5)(a) Information made confidential and exempt pursuant to this section shall be made available to a law enforcement agency, the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Florida Digital Service within the Department of Management Services, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.
(b) Such confidential and exempt information may be disclosed by an agency in the furtherance of its official duties and responsibilities or to another agency or governmental entity in the furtherance of its statutory duties and responsibilities.
(6) Agencies may report information about cybersecurity incidents in the aggregate.
(7) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.
History.—s. 1, ch. 2022-221.

119.084 COPYRIGHT OF DATA PROCESSING SOFTWARE CREATED BY GOVERNMENTAL AGENCIES; SALE PRICE AND LICENSING FEE

(1) As used in this section, "agency" has the same meaning as in s. 119.011(2), except that the term does not include any private agency, person, partnership, corporation, or business entity.
(2) An agency is authorized to acquire and hold a copyright for data processing software created by the agency and to enforce its rights pertaining to such copyright, provided that the agency complies with the requirements of this subsection.
(a) An agency that has acquired a copyright for data processing software created by the agency may sell or license the copyrighted data processing software to any public agency or private person. The agency may establish a price for the sale and a licensing fee for the use of such data processing software that may be based on market considerations. However, the prices or fees for the sale or licensing of copyrighted data processing software to an individual or entity solely for application to information maintained or generated by the agency that created the copyrighted data processing software shall be determined pursuant to s. 119.07(4).
(b) Proceeds from the sale or licensing of copyrighted data processing software shall be deposited by the agency into a trust fund for the agency's appropriate use for authorized purposes. Counties, municipalities, and other political subdivisions of the state may designate how such sale and licensing proceeds are to be used.
(c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any other provision of law that authorizes an agency to acquire and hold copyrights.
History.—s. 1, ch. 2001-251; s. 9, ch. 2004-335; s. 1, ch. 2006-286.

119.092 REGISTRATION BY FEDERAL EMPLOYER'S REGISTRATION NUMBER

Each state agency which registers or licenses corporations, partnerships, or other business entities shall include, within its numbering system, the federal employer's identification number of each corporation, partnership, or other business entity registered or licensed by it. Any state agency may maintain a dual numbering system in which the federal employer's identification number or the state agency's own number is the primary identification number; however, the records of such state agency shall be designed in such a way that the record of any business entity is subject to direct location by the federal employer's identification number. The Department of State shall keep a registry of federal employer's identification numbers of all business entities, registered with the Division of Corporations, which registry of numbers may be used by all state agencies.
History.—s. 1, ch. 77-148; s. 9, ch. 2018-110.

119.10 VIOLATION OF CHAPTER; PENALTIES

(1) Any public officer who:
(a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding $500.
(b) Knowingly violates the provisions of s. 119.07(1) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(2) Any person who willfully and knowingly violates:
(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(b) Section 119.105 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
History.—s. 10, ch. 67-125; s. 74, ch. 71-136; s. 5, ch. 85-301; s. 2, ch. 2001-271; s. 11, ch. 2004-335.

119.105 PROTECTION OF VICTIMS OF CRIMES OR ACCIDENTS

Police reports are public records except as otherwise made exempt or confidential. Every person is allowed to examine nonexempt or nonconfidential police reports. A person who comes into possession of exempt or confidential information contained in police reports may not use that information for any commercial solicitation of the victims or relatives of the victims of the reported crimes or accidents and may not knowingly disclose such information to any third party for the purpose of such solicitation during the period of time that information remains exempt or confidential. This section does not prohibit the publication of such information to the general public by any news media legally entitled to possess that information or the use of such information for any other data collection or analysis purposes by those entitled to possess that information.
History.—s. 1, ch. 90-280; s. 2, ch. 2003-411; s. 12, ch. 2004-335.

119.11 ACCELERATED HEARING; IMMEDIATE COMPLIANCE

(1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an immediate hearing, giving the case priority over other pending cases.
(2) Whenever a court orders an agency to open its records for inspection in accordance with this chapter, the agency shall comply with such order within 48 hours, unless otherwise

provided by the court issuing such order, or unless the appellate court issues a stay order within such 48-hour period.
(3) A stay order shall not be issued unless the court determines that there is a substantial probability that opening the records for inspection will result in significant damage.
(4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of this chapter, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption or the assertion that the requested record is not a public record subject to inspection and examination under s. 119.07(1), until the court directs otherwise. The person who has custody of such public record may, however, at any time permit inspection of the requested record as provided in s. 119.07(1) and other provisions of law.
History.—s. 5, ch. 75-225; s. 2, ch. 83-214; s. 6, ch. 84-298.

119.12 ATTORNEY FEES

(1) If a civil action is filed against an agency to enforce the provisions of this chapter, the court shall assess and award the reasonable costs of enforcement, including reasonable attorney fees, against the responsible agency if the court determines that:
(a) The agency unlawfully refused to permit a public record to be inspected or copied; and
(b) The complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 business days before filing the civil action, except as provided under subsection (2). The notice period begins on the day the written notice of the request is received by the custodian of public records, excluding Saturday, Sunday, and legal holidays, and runs until 5 business days have elapsed.
(2) The complainant is not required to provide written notice of the public record request to the agency's custodian of public records as provided in paragraph (1)(b) if the agency does not prominently post the contact information for the agency's custodian of public records in the agency's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website, if the agency has a website.
(3) The court shall determine whether the complainant requested to inspect or copy a public record or participated in the civil action for an improper purpose. If the court determines there was an improper purpose, the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, and shall assess and award against the complainant and to the agency the reasonable costs, including reasonable attorney fees, incurred by the agency in responding to the civil action. For purposes of this subsection, the term "improper purpose" means a request to inspect or copy a public record or to participate in the civil action primarily to cause a violation of this chapter or for a frivolous purpose.
(4) This section does not create a private right of action authorizing the award of monetary damages for a person who brings an action to enforce the provisions of this chapter. Payments by the responsible agency may include only the reasonable costs of enforcement, including reasonable attorney fees, directly attributable to a civil action brought to enforce the provisions of this chapter.
History.—s. 5, ch. 75-225; s. 7, ch. 84-298; s. 13, ch. 2004-335; s. 1, ch. 2017-21.

119.15 LEGISLATIVE REVIEW OF EXEMPTIONS FROM PUBLIC MEETING AND PUBLIC RECORDS REQUIREMENTS

(1) This section may be cited as the "Open Government Sunset Review Act."
(2) This section provides for the review and repeal or reenactment of an exemption from s. 24, Art. I of the State Constitution and s. 119.07(1) or s. 286.011. This act does not apply to an exemption that:
(a) Is required by federal law; or
(b) Applies solely to the Legislature or the State Court System.
(3) In the 5th year after enactment of a new exemption or substantial amendment of an existing exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the Legislature acts to reenact the exemption.
(4)(a) A law that enacts a new exemption or substantially amends an existing exemption must state that the record or meeting is:
1. Exempt from s. 24, Art. I of the State Constitution;
2. Exempt from s. 119.07(1) or s. 286.011; and
3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.
(b) For purposes of this section, an exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption.
(c) This section is not intended to repeal an exemption that has been amended following legislative review before the scheduled repeal of the exemption if the exemption is not substantially amended as a result of the review.
(5)(a) By June 1 in the year before the repeal of an exemption under this section, the Office of Legislative Services shall certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.
(b) An exemption that is not identified and certified to the President of the Senate and the Speaker of the House of Representatives is not subject to legislative review and repeal under this section. If the office fails to certify an exemption that it subsequently determines should have been certified, it shall include the exemption in the following year's certification after that determination.
(6)(a) As part of the review process, the Legislature shall consider the following:
1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?

4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
5. Is the record or meeting protected by another exemption?
6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

(b) An exemption may be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or

3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(7) Records made before the date of a repeal of an exemption under this section may not be made public unless otherwise provided by law. In deciding whether the records shall be made public, the Legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exemption of the type specified in subparagraph (6)(b)2. or subparagraph (6)(b)3. would occur if the records were made public.

(8) Notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

History.—s. 2, ch. 95-217; s. 25, ch. 98-136; s. 37, ch. 2005-251; s. 15, ch. 2006-1; s. 5, ch. 2012-51.

CHAPTER 120
ADMINISTRATIVE PROCEDURE ACT

120.50 EXCEPTION TO APPLICATION OF CHAPTER

This chapter shall not apply to:
(1) The Legislature.
(2) The courts.
History.—s. 1, ch. 74-310; s. 3, ch. 77-468; s. 1, ch. 78-162.

120.51 SHORT TITLE

This chapter may be known and cited as the "Administrative Procedure Act."
History.—s. 1, ch. 74-310.

120.515 DECLARATION OF POLICY

This chapter provides uniform procedures for the exercise of specified authority. This chapter does not limit or impinge upon the assignment of executive power under Article IV of the State Constitution or the legal authority of an appointing authority to direct and supervise those appointees serving at the pleasure of the appointing authority. For purposes of this chapter, adherence to the direction and supervision of an appointing authority does not constitute delegation or transfer of statutory authority assigned to the appointee.
History.—s. 7, ch. 2012-116.

120.52 DEFINITIONS

As used in this act:
(1) "Agency" means the following officers or governmental entities if acting pursuant to powers other than those derived from the constitution:
(a) The Governor; each state officer and state department, and each departmental unit described in s. 20.04; the Board of Governors of the State University System; the Commission on Ethics; the Fish and Wildlife Conservation Commission; a regional water supply authority; a regional planning agency; a multicounty special district, but only if a majority of its governing board is comprised of nonelected persons; educational units; and each entity described in chapters 163, 373, 380, and 582 and s. 186.504.
(b) Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county.
(c) Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to this chapter by general or special law or existing judicial decisions.
This definition does not include a municipality or legal entity created solely by a municipality; a legal entity or agency created in whole or in part pursuant to part II of chapter 361; a metropolitan planning organization created pursuant to s. 339.175; a separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member; an expressway authority pursuant to chapter 348 or any transportation authority or commission under chapter 343 or chapter 349; or a legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.
(2) "Agency action" means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. 120.54(7).
(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority, but actions taken by the agency head as authorized by statute are official acts.
(4) "Committee" means the Administrative Procedures Committee.
(5) "Division" means the Division of Administrative Hearings. Any document filed with the division by a party

represented by an attorney shall be filed by electronic means through the division's website. Any document filed with the division by a party not represented by an attorney shall, whenever possible, be filed by electronic means through the division's website.

(6) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a state university when the university is acting pursuant to statutory authority derived from the Legislature.

(7) "Final order" means a written final decision which results from a proceeding under s. 120.56, s. 120.565, s. 120.569, s. 120.57, s. 120.573, or s. 120.574 which is not a rule, and which is not excepted from the definition of a rule, and which has been filed with the agency clerk, and includes final agency actions which are affirmative, negative, injunctive, or declaratory in form. A final order includes all materials explicitly adopted in it. The clerk shall indicate the date of filing on the order.

(8) "Invalid exercise of delegated legislative authority" means action that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:

(a) The agency has materially failed to follow the applicable rulemaking procedures or requirements set forth in this chapter;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1.;

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.;

(d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;

(e) The rule is arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational; or

(f) The rule imposes regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

(9) "Law implemented" means the language of the enabling statute being carried out or interpreted by an agency through rulemaking.

(10) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(11) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

(12) "Official reporter" means the publication in which an agency publishes final orders, the index to final orders, and the list of final orders which are listed rather than published.

(13) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

The term "party" does not include a member government of a regional water supply authority or a governmental or quasi-judicial board or commission established by local ordinance or special or general law where the governing membership of such board or commission is shared with, in whole or in part, or appointed by a member government of a regional water supply authority in proceedings under s. 120.569, s. 120.57, or s. 120.68, to the extent that an interlocal agreement under ss. 163.01 and 373.713 exists in which the member government has agreed that its substantial interests are not affected by the proceedings or that it is to be bound by alternative dispute resolution in lieu of participating in the proceedings. This exclusion applies only to those particular types of disputes or controversies, if any, identified in an interlocal agreement.

(14) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(15) "Recommended order" means the official recommendation of an administrative law judge assigned by the division or of any other duly authorized presiding officer, other than an agency head or member of an agency head, for the final disposition of a proceeding under ss. 120.569 and 120.57.

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an

agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer or Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Chief Financial Officer or Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Memoranda issued by the Executive Office of the Governor relating to information resources management.

(17) "Rulemaking authority" means statutory language that explicitly authorizes or requires an agency to adopt, develop, establish, or otherwise create any statement coming within the definition of the term "rule."

(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

(20) "Unadopted rule" means an agency statement that meets the definition of the term "rule," but that has not been adopted pursuant to the requirements of s. 120.54.

(21) "Variance" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance shall conform to the standards for variances outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

(22) "Waiver" means a decision by an agency not to apply all or part of a rule to a person who is subject to the rule. Any waiver shall conform to the standards for waivers outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

History.—s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131; s. 1, ch. 77-174; s. 12, ch. 77-290; s. 2, ch. 77-453; s. 1, ch. 78-28; s. 1, ch. 78-425; s. 1, ch. 79-20; s. 55, ch. 79-40; s. 1, ch. 79-299; s. 2, ch. 81-119; s. 1, ch. 81-180; s. 7, ch. 82-180; s. 1, ch. 83-78; s. 2, ch. 83-273; s. 10, ch. 84-170; s. 15, ch. 85-80; s. 1, ch. 85-168; s. 2, ch. 87-385; s. 1, ch. 88-367; s. 1, ch. 89-147; s. 1, ch. 91-46; s. 9, ch. 92-166; s. 50, ch. 92-279; s. 55, ch. 92-326; s. 3, ch. 96-159; s. 1, ch. 97-176; s. 2, ch. 97-286; s. 1, ch. 98-402; s. 64, ch. 99-245; s. 2, ch. 99-379; s. 895, ch. 2002-387; s. 1, ch. 2003-94; s. 138, ch. 2003-261; s. 7, ch. 2003-286; s. 3, ch. 2007-196; s. 13, ch. 2007-217; s. 2, ch. 2008-104; s. 1, ch. 2009-85; s. 1, ch. 2009-187; s. 10, ch. 2010-5; s. 2, ch. 2010-205; s. 7, ch. 2011-208; s. 8, ch. 2012-116; s. 14, ch. 2013-173.

120.525 MEETINGS, HEARINGS, AND WORKSHOPS

(1) Except in the case of emergency meetings, each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Register and on the agency's website not less than 7 days before the event. The notice shall include a statement of the general subject matter to be considered.

(2) An agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on the agency's website. The agenda shall contain the items to be considered in order of presentation. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time.

(3) If an agency finds that an immediate danger to the public health, safety, or welfare requires immediate action, the agency may hold an emergency public meeting and give notice of such meeting by any procedure that is fair under the circumstances and necessary to protect the public interest, if:

(a) The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

(b) The agency takes only that action necessary to protect the public interest under the emergency procedure.

(c) The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(4) For purposes of establishing a quorum at meetings of regional planning councils that cover three or more counties, a voting member who appears via telephone, real-time videoconferencing, or similar real-time electronic or video communication that is broadcast publicly at the meeting location may be counted toward the quorum requirement if at least one-third of the voting members of the regional planning council are physically present at the meeting location. A member must provide oral, written, or electronic notice of his or her intent to appear via telephone, real-time videoconferencing, or similar real-time electronic or video communication to the regional planning council at least 24 hours before the scheduled meeting.

History.—s. 4, ch. 96-159; s. 3, ch. 2009-187; s. 3, ch. 2013-14; s. 1, ch. 2020-122.

120.53 MAINTENANCE OF AGENCY FINAL ORDERS

(1) In addition to maintaining records contained in s. 119.021(3), each agency shall also electronically transmit a certified text-searchable copy of each agency final order listed in subsection (2) rendered on or after July 1, 2015, to a centralized electronic database of agency final orders

maintained by the division. The database must allow users to research and retrieve the full texts of agency final orders by:
(a) The name of the agency that issued the final order.
(b) The date the final order was issued.
(c) The type of final order.
(d) The subject of the final order.
(e) Terms contained in the text of the final order.
(2) The agency final orders that must be electronically transmitted to the centralized electronic database include:
(a) Each final order resulting from a proceeding under s. 120.57 or s. 120.573.
(b) Each final order rendered pursuant to s. 120.57(4) which contains a statement of agency policy that may be the basis of future agency decisions or that may otherwise contain a statement of precedential value.
(c) Each declaratory statement issued by an agency.
(d) Each final order resulting from a proceeding under s. 120.56 or s. 120.574.
(3) Each agency shall maintain a list of all final orders rendered pursuant to s. 120.57(4) that are not required to be electronically transmitted to the centralized electronic database because they do not contain statements of agency policy or statements of precedential value. The list must include the name of the parties to the proceeding and the number assigned to the final order.
(4) Each final order, whether rendered by the agency or the division, that must be electronically transmitted to the centralized electronic database or maintained on a list pursuant to subsection (3) must be electronically transmitted to the database or added to the list within 90 days after the final order is rendered. Each final order that must be electronically transmitted to the database or added to the list must have attached a copy of the complete text of any materials incorporated by reference; however, if the quantity of the materials incorporated makes attachment of the complete text of the materials impractical, the final order may contain a statement of the location of such materials and the manner in which the public may inspect or obtain copies of the materials incorporated by reference.
(5) Nothing in this section relieves an agency from its responsibility for maintaining a subject matter index of final orders rendered before July 1, 2015, and identifying the location of the subject matter index on the agency's website. In addition, an agency may electronically transmit to the centralized electronic database certified copies of all of the final orders that were rendered before July 1, 2015, which were required to be in the subject matter index. The centralized electronic database constitutes the official compilation of administrative final orders rendered on or after July 1, 2015, for each agency.
History.—s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131; s. 2, ch. 79-299; s. 1, ch. 81-296; s. 2, ch. 81-309; s. 8, ch. 83-92; s. 34, ch. 83-217; s. 3, ch. 83-273; s. 1, ch. 84-203; s. 77, ch. 85-180; s. 2, ch. 87-100; s. 2, ch. 88-384; s. 44, ch. 90-136; s. 35, ch. 90-302; s. 2, ch. 91-30; s. 79, ch. 91-45; s. 1, ch. 91-191; s. 1, ch. 92-166; s. 143, ch. 92-279; s. 55, ch. 92-326; s. 757, ch. 95-147; s. 5, ch. 96-159; s. 2, ch. 96-423; s. 2, ch. 97-176; s. 3, ch. 2008-104; s. 2, ch. 2015-155.

120.533 COORDINATION OF THE TRANSMITTAL, INDEXING, AND LISTING OF AGENCY FINAL ORDERS BY DEPARTMENT OF STATE

The Department of State shall:
(1) Coordinate the transmittal, indexing, management, preservation, and availability of agency final orders that must be transmitted, indexed, or listed pursuant to s. 120.53.
(2) Provide guidelines for indexing agency final orders. More than one system for indexing may be approved by the Department of State, including systems or methods in use, or proposed for use, by an agency. More than one system may be approved for use by a single agency as best serves the needs of that agency and the public.
(3) Provide for storage and retrieval systems to be maintained by agencies pursuant to s. 120.53(5) for indexing, and making available agency final orders by subject matter. The Department of State may authorize more than one system, including systems in use by an agency. Storage and retrieval systems that may be used by an agency include, without limitation, a designated reporter or reporters, a microfilming system, an automated system, or any other system considered appropriate by the Department of State.
(4) Provide standards and guidelines for the certification and electronic transmittal of copies of agency final orders to the division, as required under s. 120.53, and, to protect the integrity and authenticity of information publicly accessible through the electronic database, coordinate and provide standards and guidelines to ensure the security of copies of agency final orders transmitted and maintained in the electronic database by the division under s. 120.53(1).
(5) For each agency, determine which final orders must be indexed or transmitted.
(6) Require each agency to report to the department concerning which types or categories of agency orders establish precedent for each agency.
(7) Adopt rules as necessary to administer its responsibilities under this section, which shall be binding on all agencies including the division acting in the capacity of official compiler of administrative final orders under s. 120.53, notwithstanding s. 120.65. The Department of State may provide for an alternative official compiler to manage and operate the division's database and related services if the Administration Commission determines that the performance of the division as official compiler is unsatisfactory.
History.—s. 9, ch. 91-30; s. 1, ch. 91-191; s. 7, ch. 96-159; s. 3, ch. 2015-155.

120.536 RULEMAKING AUTHORITY; REPEAL; CHALLENGE

(1) A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy.

Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

(2) Unless otherwise expressly provided by law:

(a) The repeal of one or more provisions of law implemented by a rule that on its face implements only the provision or provisions repealed and no other provision of law nullifies the rule. Whenever notice of the nullification of a rule under this subsection is received from the committee or otherwise, the Department of State shall remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

(b) The repeal of one or more provisions of law implemented by a rule that on its face implements the provision or provisions repealed and one or more other provisions of law nullifies the rule or applicable portion of the rule to the extent that it implements the repealed law. The agency having authority to repeal or amend the rule shall, within 180 days after the effective date of the repealing law, publish a notice of rule development identifying all portions of rules affected by the repealing law, and if no notice is timely published the operation of each rule implementing a repealed provision of law shall be suspended until such notice is published.

(c) The repeal of one or more provisions of law that, other than as provided in paragraph (a) or paragraph (b), causes a rule or portion of a rule to be of uncertain enforceability requires the Department of State to treat the rule as provided by s. 120.555. A rule shall be considered to be of uncertain enforceability under this paragraph if the division notifies the Department of State that a rule or a portion of the rule has been invalidated in a division proceeding based upon a repeal of law, or the committee gives written notification to the Department of State and the agency having power to amend or repeal the rule that a law has been repealed creating doubt about whether the rule is still in full force and effect.

(3) The Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, the agency shall initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

(4) Nothing in this section shall be construed to change the legal status of a rule that has otherwise been judicially or administratively determined to be invalid.

History.—s. 9, ch. 96-159; s. 3, ch. 99-379; s. 15, ch. 2000-151; s. 15, ch. 2005-2; s. 4, ch. 2008-104; s. 1, ch. 2012-31.

120.54 RULEMAKING

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—

(a) Rulemaking is not a matter of agency discretion. Each agency statement defined as a rule by s. 120.52 shall be adopted by the rulemaking procedure provided by this section as soon as feasible and practicable.

1. Rulemaking shall be presumed feasible unless the agency proves that:

a. The agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by rulemaking; or

b. Related matters are not sufficiently resolved to enable the agency to address a statement by rulemaking.

2. Rulemaking shall be presumed practicable to the extent necessary to provide fair notice to affected persons of relevant agency procedures and applicable principles, criteria, or standards for agency decisions unless the agency proves that:

a. Detail or precision in the establishment of principles, criteria, or standards for agency decisions is not reasonable under the circumstances; or

b. The particular questions addressed are of such a narrow scope that more specific resolution of the matter is impractical outside of an adjudication to determine the substantial interests of a party based on individual circumstances.

(b) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided in this section within the times provided in s. 120.74(4) and (5).

(c) No statutory provision shall be delayed in its implementation pending an agency's adoption of implementing rules unless there is an express statutory provision prohibiting its application until the adoption of implementing rules.

(d) In adopting rules, all agencies must, among the alternative approaches to any regulatory objective and to the extent allowed by law, choose the alternative that does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(e) No agency has inherent rulemaking authority, nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules.

(f) An agency may adopt rules authorized by law and necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be effective until the statute upon which they are based is effective. An agency may not adopt retroactive rules, including retroactive rules intended to clarify existing law, unless that power is expressly authorized by statute.

(g) Each rule adopted shall contain only one subject.

(h) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of these materials and given a reasonable opportunity to examine them and offer written comments or written rebuttal.

(i)1. A rule may incorporate material by reference but only as the material exists on the date the rule is adopted. For purposes of the rule, changes in the material are not effective unless the rule is amended to incorporate the changes.

2. An agency rule that incorporates by specific reference another rule of that agency automatically incorporates subsequent amendments to the referenced rule unless a contrary intent is clearly indicated in the referencing rule. A notice of amendments to a rule that has been incorporated by specific reference in other rules of that agency must explain the effect of those amendments on the referencing rules.

3. In rules adopted after December 31, 2010, material may not be incorporated by reference unless:

a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or

b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1.

4. A rule may not be amended by reference only. Amendments must set out the amended rule in full in the same manner as required by the State Constitution for laws.

5. Notwithstanding any contrary provision in this section, when an adopted rule of the Department of Environmental Protection or a water management district is incorporated by reference in the other agency's rule to implement a provision of part IV of chapter 373, subsequent amendments to the rule are not effective as to the incorporating rule unless the agency incorporating by reference notifies the committee and the Department of State of its intent to adopt the subsequent amendment, publishes notice of such intent in the Florida Administrative Register, and files with the Department of State a copy of the amended rule incorporated by reference. Changes in the rule incorporated by reference are effective as to the other agency 20 days after the date of the published notice and filing with the Department of State. The Department of State shall amend the history note of the incorporating rule to show the effective date of such change. Any substantially affected person may, within 14 days after the date of publication of the notice of intent in the Florida Administrative Register, file an objection to rulemaking with the agency. The objection shall specify the portions of the rule incorporated by reference to which the person objects and the reasons for the objection. The agency shall not have the authority under this subparagraph to adopt those portions of the rule specified in such objection. The agency shall publish notice of the objection and of its action in response in the next available issue of the Florida Administrative Register.

6. The Department of State may adopt by rule requirements for incorporating materials pursuant to this paragraph.

(j) A rule published in the Florida Administrative Code must be indexed by the Department of State within 90 days after the rule is filed. The Department of State shall by rule establish procedures for indexing rules.

(k) An agency head may delegate the authority to initiate rule development under subsection (2); however, rulemaking responsibilities of an agency head under subparagraph (3)(a)1., subparagraph (3)(e)1., or subparagraph (3)(e)6. may not be delegated or transferred.

(2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

(a) Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Register before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include the preliminary text of the proposed rules, if available, or a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules should be drafted in readable language. The language is readable if:

1. It avoids the use of obscure words and unnecessarily long or complicated constructions; and

2. It avoids the use of unnecessary technical or specialized language that is understood only by members of particular trades or professions.

(c) An agency may hold public workshops for purposes of rule development. An agency must hold public workshops, including workshops in various regions of the state or the agency's service area, for purposes of rule development if requested in writing by any affected person, unless the agency head explains in writing why a workshop is unnecessary. The explanation is not final agency action subject to review pursuant to ss. 120.569 and 120.57. The failure to provide the explanation when required may be a material error in procedure pursuant to s. 120.56(1)(c). When a workshop or public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule are available to explain the agency's proposal and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency may employ other types of dispute resolution alternatives for the workshop that are appropriate for rule development. Notice of a rule development workshop shall be by publication in the Florida Administrative Register not less than 14 days prior to the date on which the workshop is scheduled to be held and shall indicate the subject area which will be addressed; the agency contact person; and the place, date, and time of the workshop.

(d)1. An agency may use negotiated rulemaking in developing and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but is not limited to considering, whether a balanced committee of interested persons who will negotiate in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.

2. An agency that chooses to use the negotiated rulemaking process described in this paragraph shall publish in the Florida Administrative Register a notice of negotiated rulemaking that includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days after publication of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to the provisions of this chapter. The negotiating committee shall be chaired by a neutral facilitator or mediator.

3. The agency's decision to use negotiated rulemaking, its selection of the representative groups, and approval or denial of an application to participate in the negotiated rulemaking process are not agency action. Nothing in this subparagraph is intended to affect the rights of an affected person to challenge a proposed rule developed under this paragraph in accordance with s. 120.56(2).

(3) ADOPTION PROCEDURES.—

(a) Notices.—

1. Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2); a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule, the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Register not less than 28 days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

3. The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed.

4. The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a copy of any material incorporated by reference in the rule; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541; a statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and the notice required by subparagraph 1.

(b) Special matters to be considered in rule adoption.—

1. Statement of estimated regulatory costs.—Before the adoption, amendment, or repeal of any rule other than an emergency rule, an agency is encouraged to prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541. However, an agency must prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if:

a. The proposed rule will have an adverse impact on small business; or

b. The proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in this state within 1 year after the implementation of the rule.

2. Small businesses, small counties, and small cities.—

a. Each agency, before the adoption, amendment, or repeal of a rule, shall consider the impact of the rule on small businesses as defined by s. 288.703 and the impact of the rule on small counties or small cities as defined by s. 120.52. Whenever practicable, an agency shall tier its rules to reduce disproportionate impacts on small businesses, small counties, or small cities to avoid regulating small businesses, small counties, or small cities that do not contribute significantly to the problem the rule is designed to address. An agency may define "small business" to include businesses employing more than 200 persons, may define "small county" to include those with populations of more than 75,000, and may define "small city" to include those with populations of more than 10,000, if it finds that such a definition is necessary to adapt a rule to the needs and problems of small businesses, small counties, or small cities. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses, small counties, and small cities, or any combination of these entities:

(I) Establishing less stringent compliance or reporting requirements in the rule.

(II) Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements.

(III) Consolidating or simplifying the rule's compliance or reporting requirements.

(IV) Establishing performance standards or best management practices to replace design or operational standards in the rule.

(V) Exempting small businesses, small counties, or small cities from any or all requirements of the rule.

b.(I) If the agency determines that the proposed action will affect small businesses as defined by the agency as provided in sub-subparagraph a., the agency shall send written notice of the rule to the rules ombudsman in the Executive Office of the Governor at least 28 days before the intended action.

(II) Each agency shall adopt those regulatory alternatives offered by the rules ombudsman in the Executive Office of the Governor and provided to the agency no later than 21 days after the rules ombudsman's receipt of the written notice of the rule which it finds are feasible and consistent with the stated

objectives of the proposed rule and which would reduce the impact on small businesses. When regulatory alternatives are offered by the rules ombudsman in the Executive Office of the Governor, the 90-day period for filing the rule in subparagraph (e)2. is extended for a period of 21 days.

(III) If an agency does not adopt all alternatives offered pursuant to this sub-subparagraph, it shall, before rule adoption or amendment and pursuant to subparagraph (d)1., file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days after the filing of such notice, the agency shall send a copy of such notice to the rules ombudsman in the Executive Office of the Governor.

(c) Hearings.—

1. If the intended action concerns any rule other than one relating exclusively to procedure or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice of intended agency action, give affected persons an opportunity to present evidence and argument on all issues under consideration. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. When a public hearing is held, the agency must ensure that staff are available to explain the agency's proposal and to respond to questions or comments regarding the rule. If the agency head is a board or other collegial body created under s. 20.165(4) or s. 20.43(3)(g), and one or more requested public hearings is scheduled, the board or other collegial body shall conduct at least one of the public hearings itself and may not delegate this responsibility without the consent of those persons requesting the public hearing. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted to the agency between the date of publication of the notice and the end of the final public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

2. Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that the person's substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect the person's interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of ss. 120.569 and 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

(d) Modification or withdrawal of proposed rules.—

1. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, if the rule has not been changed from the rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days prior to filing the rule for adoption. Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the committee. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days prior to filing the rule for adoption. The notice of change shall be published in the Florida Administrative Register at least 21 days prior to filing the rule for adoption. This subparagraph does not apply to emergency rules adopted pursuant to subsection (4).

2. After the notice required by paragraph (a) and prior to adoption, the agency may withdraw the rule in whole or in part.

3. After adoption and before the rule becomes effective, a rule may be modified or withdrawn only in the following circumstances:

a. When the committee objects to the rule;

b. When a final order, which is not subject to further appeal, is entered in a rule challenge brought pursuant to s. 120.56 after the date of adoption but before the rule becomes effective pursuant to subparagraph (e)6.;

c. If the rule requires ratification, when more than 90 days have passed since the rule was filed for adoption without the Legislature ratifying the rule, in which case the rule may be withdrawn but may not be modified; or

d. When the committee notifies the agency that an objection to the rule is being considered, in which case the rule may be modified to extend the effective date by not more than 60 days.

4. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published, shall notify those persons described in subparagraph (a)3. in accordance with the requirements of that subparagraph, and shall notify the Department of State if the rule is required to be filed with the Department of State.

5. After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

(e) Filing for final adoption; effective date.—

1. If the adopting agency is required to publish its rules in the Florida Administrative Code, the agency, upon approval of the agency head, shall file with the Department of State three certified copies of the rule it proposes to adopt; one copy of any material incorporated by reference in the rule, certified by the agency; a summary of the rule; a summary of any hearings held on the rule; and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required by this subparagraph, in the office of the agency head, and such rules shall be open to the public.

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a),

until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after a statement of estimated regulatory costs required under s. 120.541 has been provided to all persons who submitted a lower cost regulatory alternative and made available to the public, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies. When a required notice of change is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. The term "public hearing" includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.

3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The department shall reject any rule that is not filed within the prescribed time limits; that does not comply with all statutory rulemaking requirements and rules of the department; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule shall withdraw the rule and give notice of its action in the next available issue of the Florida Administrative Register.

6. The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the notice required by subparagraph (a)1., on a date required by statute, or upon ratification by the Legislature pursuant to s. 120.541(3). Rules not required to be filed with the Department of State shall become effective when adopted by the agency head, on a later date specified by rule or statute, or upon ratification by the Legislature pursuant to s. 120.541(3). If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule. For the purposes of this paragraph, the term "administrative determination" does not include subsequent judicial review.

(4) EMERGENCY RULES.—

(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger. The agency may adopt a rule by any procedure which is fair under the circumstances if:

1. The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one or a part of one county, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Register and provided to the committee along with any material incorporated by reference in the rules. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include rules pertaining to perishable agricultural commodities or rules pertaining to the interpretation and implementation of the requirements of chapters 97-102 and chapter 105 of the Election Code.

(c) An emergency rule adopted under this subsection shall not be effective for a period longer than 90 days and shall not be renewable, except when the agency has initiated rulemaking to adopt rules addressing the subject of the emergency rule and either:

1. A challenge to the proposed rules has been filed and remains pending; or

2. The proposed rules are awaiting ratification by the Legislature pursuant to s. 120.541(3).

Nothing in this paragraph prohibits the agency from adopting a rule or rules identical to the emergency rule through the rulemaking procedures specified in subsection (3).

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or on a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.

(5) UNIFORM RULES.—

(a)1. By July 1, 1997, the Administration Commission shall adopt one or more sets of uniform rules of procedure which shall be reviewed by the committee and filed with the Department of State. Agencies must comply with the uniform rules by July 1, 1998. The uniform rules shall establish procedures that comply with the requirements of this chapter. On filing with the department, the uniform rules shall be the

rules of procedure for each agency subject to this chapter unless the Administration Commission grants an exception to the agency under this subsection.

2. An agency may seek exceptions to the uniform rules of procedure by filing a petition with the Administration Commission. The Administration Commission shall approve exceptions to the extent necessary to implement other statutes, to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exceptions shall be published in the Florida Administrative Register.

3. Agency rules that provide exceptions to the uniform rules shall not be filed with the department unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the uniform rules shall publish a separate chapter in the Florida Administrative Code that delineates clearly the provisions of the agency's rules that provide exceptions to the uniform rules and specifies each alternative chosen from among those authorized by the uniform rules. Each chapter shall be organized in the same manner as the uniform rules.

(b) The uniform rules of procedure adopted by the commission pursuant to this subsection shall include, but are not limited to:

1. Uniform rules for the scheduling of public meetings, hearings, and workshops.

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

3. Uniform rules of procedure for the filing of notice of protests and formal written protests. The Administration Commission may prescribe the form and substantive provisions of a required bond.

4. Uniform rules of procedure for the filing of petitions for administrative hearings pursuant to s. 120.569 or s. 120.57. Such rules shall require the petition to include:

a. The identification of the petitioner, including the petitioner's e-mail address, if any, for the transmittal of subsequent documents by electronic means.

b. A statement of when and how the petitioner received notice of the agency's action or proposed action.

c. An explanation of how the petitioner's substantial interests are or will be affected by the action or proposed action.

d. A statement of all material facts disputed by the petitioner or a statement that there are no disputed facts.

e. A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action.

f. A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes.

g. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the proposed action.

5. Uniform rules for the filing of request for administrative hearing by a respondent in agency enforcement and disciplinary actions. Such rules shall require a request to include:

a. The name, address, e-mail address, and telephone number of the party making the request and the name, address, and telephone number of the party's counsel or qualified representative upon whom service of pleadings and other papers shall be made;

b. A statement that the respondent is requesting an administrative hearing and disputes the material facts alleged by the petitioner, in which case the respondent shall identify those material facts that are in dispute, or that the respondent is requesting an administrative hearing and does not dispute the material facts alleged by the petitioner; and

c. A reference by file number to the administrative complaint that the party has received from the agency and the date on which the agency pleading was received.

The agency may provide an election-of-rights form for the respondent's use in requesting a hearing, so long as any form provided by the agency calls for the information in sub-subparagraphs a. through c. and does not impose any additional requirements on a respondent in order to request a hearing, unless such requirements are specifically authorized by law.

6. Uniform rules of procedure for the filing and prompt disposition of petitions for declaratory statements. The rules shall also describe the contents of the notices that must be published in the Florida Administrative Register under s. 120.565, including any applicable time limit for the filing of petitions to intervene or petitions for administrative hearing by persons whose substantial interests may be affected.

7. Provision of a method by which each agency head shall provide a description of the agency's organization and general course of its operations. The rules shall require that the statement concerning the agency's organization and operations be published on the agency's website.

8. Uniform rules establishing procedures for granting or denying petitions for variances and waivers pursuant to s. 120.542.

(6) ADOPTION OF FEDERAL STANDARDS.—Notwithstanding any contrary provision of this section, in the pursuance of state implementation, operation, or enforcement of federal programs, an agency is empowered to adopt rules substantively identical to regulations adopted pursuant to federal law, in accordance with the following procedures:

(a) The agency shall publish notice of intent to adopt a rule pursuant to this subsection in the Florida Administrative Register at least 21 days prior to filing the rule with the Department of State. The agency shall provide a copy of the notice of intent to adopt a rule to the committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the agency shall consider any written comments received within 14 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this subsection.

(b) Any rule adopted pursuant to this subsection shall become effective upon the date designated by the agency in the notice of intent to adopt a rule; however, no such rule shall become effective earlier than the effective date of the substantively identical federal regulation.

(c) Any substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to rulemaking with the agency. The objection shall specify the portions of the proposed rule to which the person objects and the specific reasons for the objection. The agency shall not proceed pursuant to this subsection to adopt those portions of the proposed rule specified in an objection, unless the agency deems the objection to be frivolous, but may proceed pursuant to subsection (3). An objection to a proposed rule, which rule in no material respect differs from the requirements of the federal regulation upon which it is based, is deemed to be frivolous.

(d) Whenever any federal regulation adopted as an agency rule pursuant to this subsection is declared invalid or is withdrawn, revoked, repealed, remanded, or suspended, the agency shall, within 60 days thereafter, publish a notice of repeal of the substantively identical agency rule in the Florida Administrative Register. Such repeal is effective upon publication of the notice. Whenever any federal regulation adopted as an agency rule pursuant to this subsection is substantially amended, the agency may adopt the amended regulation as a rule. If the amended regulation is not adopted as a rule within 180 days after the effective date of the amended regulation, the original rule is deemed repealed and the agency shall publish a notice of repeal of the original agency rule in the next available Florida Administrative Register.

(e) Whenever all or part of any rule proposed for adoption by the agency is substantively identical to a regulation adopted pursuant to federal law, such rule shall be written in a manner so that the rule specifically references the regulation whenever possible.

(7) PETITION TO INITIATE RULEMAKING.—

(a) Any person regulated by an agency or having substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by this chapter. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days following the date of filing a petition, the agency shall initiate rulemaking proceedings under this chapter, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(b) If the petition filed under this subsection is directed to an unadopted rule, the agency shall, not later than 30 days following the date of filing a petition, initiate rulemaking, or provide notice in the Florida Administrative Register that the agency will hold a public hearing on the petition within 30 days after publication of the notice. The purpose of the public hearing is to consider the comments of the public directed to the agency rule which has not been adopted by the rulemaking procedures or requirements of this chapter, its scope and application, and to consider whether the public interest is served adequately by the application of the rule on a case-by-case basis, as contrasted with its adoption by the rulemaking procedures or requirements set forth in this chapter.

(c) If the agency does not initiate rulemaking or otherwise comply with the requested action within 30 days after the public hearing provided for in paragraph (b), the agency shall publish in the Florida Administrative Register a statement of its reasons for not initiating rulemaking or otherwise complying with the requested action and of any changes it will make in the scope or application of the unadopted rule. The agency shall file the statement with the committee. The committee shall forward a copy of the statement to the substantive committee with primary oversight jurisdiction of the agency in each house of the Legislature. The committee or the committee with primary oversight jurisdiction may hold a hearing directed to the statement of the agency. The committee holding the hearing may recommend to the Legislature the introduction of legislation making the rule a statutory standard or limiting or otherwise modifying the authority of the agency.

(d) If the agency initiates rulemaking after the public hearing provided for in paragraph (b), the agency shall publish a notice of rule development within 30 days after the hearing and file a notice of proposed rule within 180 days after the notice of rule development unless, before the 180th day, the agency publishes in the Florida Administrative Register a statement explaining its reasons for not having filed the notice. If rulemaking is initiated under this paragraph, the agency may not rely on the unadopted rule unless the agency publishes in the Florida Administrative Register a statement explaining why rulemaking under paragraph (1)(a) is not feasible or practicable until the conclusion of the rulemaking proceeding.

(8) RULEMAKING RECORD.—In all rulemaking proceedings the agency shall compile a rulemaking record. The record shall include, if applicable, copies of:

(a) All notices given for the proposed rule.

(b) Any statement of estimated regulatory costs for the rule.

(c) A written summary of hearings on the proposed rule.
(d) The written comments and responses to written comments as required by this section and s. 120.541.
(e) All notices and findings made under subsection (4).
(f) All materials filed by the agency with the committee under subsection (3).
(g) All materials filed with the Department of State under subsection (3).
(h) All written inquiries from standing committees of the Legislature concerning the rule.
Each state agency shall retain the record of rulemaking as long as the rule is in effect. When a rule is no longer in effect, the record may be destroyed pursuant to the records-retention schedule developed under s. 257.36(6).

History.—s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131; ss. 1, 2, ch. 76-276; s. 1, ch. 77-174; s. 13, ch. 77-290; s. 3, ch. 77-453; s. 2, ch. 78-28; s. 2, ch. 78-425; s. 7, ch. 79-3; s. 3, ch. 79-299; s. 69, ch. 79-400; s. 5, ch. 80-391; s. 1, ch. 81-309; s. 2, ch. 83-351; s. 1, ch. 84-173; s. 2, ch. 84-203; s. 7, ch. 85-104; s. 1, ch. 86-30; s. 3, ch. 87-385; s. 36, ch. 90-302; ss. 2, 4, 7, ch. 92-166; s. 63, ch. 93-187; s. 758, ch. 95-147; s. 6, ch. 95-295; s. 10, ch. 96-159; s. 6, ch. 96-320; s. 9, ch. 96-370; s. 3, ch. 97-176; s. 3, ch. 98-200; s. 4, ch. 99-379; s. 9, ch. 2001-75; s. 2, ch. 2003-94; s. 50, ch. 2005-278; s. 3, ch. 2006-82; ss. 5, 6, ch. 2008-104; s. 7, ch. 2008-149; s. 4, ch. 2009-187; ss. 1, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 49, ch. 2011-142; s. 8, ch. 2011-208; s. 1, ch. 2011-225; s. 2, ch. 2012-27; s. 1, ch. 2012-63; s. 4, ch. 2013-14; s. 13, ch. 2013-15; s. 1, ch. 2015-162; s. 1, ch. 2016-116.

120.541 STATEMENT OF ESTIMATED REGULATORY COSTS

(1)(a) Within 21 days after publication of the notice required under s. 120.54(3)(a), a substantially affected person may submit to an agency a good faith written proposal for a lower cost regulatory alternative to a proposed rule which substantially accomplishes the objectives of the law being implemented. The proposal may include the alternative of not adopting any rule if the proposal explains how the lower costs and objectives of the law will be achieved by not adopting any rule. If such a proposal is submitted, the 90-day period for filing the rule is extended 21 days. Upon the submission of the lower cost regulatory alternative, the agency shall prepare a statement of estimated regulatory costs as provided in subsection (2), or shall revise its prior statement of estimated regulatory costs, and either adopt the alternative or provide a statement of the reasons for rejecting the alternative in favor of the proposed rule.
(b) If a proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate within 1 year after the implementation of the rule, the agency shall prepare a statement of estimated regulatory costs as required by s. 120.54(3)(b).
(c) The agency shall revise a statement of estimated regulatory costs if any change to the rule made under s. 120.54(3)(d) increases the regulatory costs of the rule.
(d) At least 21 days before filing the rule for adoption, an agency that is required to revise a statement of estimated regulatory costs shall provide the statement to the person who submitted the lower cost regulatory alternative and to the committee and shall provide notice on the agency's website that it is available to the public.
(e) Notwithstanding s. 120.56(1)(c), the failure of the agency to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative as provided in this subsection is a material failure to follow the applicable rulemaking procedures or requirements set forth in this chapter.
(f) An agency's failure to prepare a statement of estimated regulatory costs or to respond to a written lower cost regulatory alternative may not be raised in a proceeding challenging the validity of a rule pursuant to s. 120.52(8)(a) unless:
1. Raised in a petition filed no later than 1 year after the effective date of the rule; and
2. Raised by a person whose substantial interests are affected by the rule's regulatory costs.
(g) A rule that is challenged pursuant to s. 120.52(8)(f) may not be declared invalid unless:
1. The issue is raised in an administrative proceeding within 1 year after the effective date of the rule;
2. The challenge is to the agency's rejection of a lower cost regulatory alternative offered under paragraph (a) or s. 120.54(3)(b)2.b.; and
3. The substantial interests of the person challenging the rule are materially affected by the rejection.
(2) A statement of estimated regulatory costs shall include:
(a) An economic analysis showing whether the rule directly or indirectly:
1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;
2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or
3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.
(b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.
(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the

rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

(e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

(3) If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

1(4) Subsection (3) does not apply to the adoption of:

(a) Federal standards pursuant to s. 120.54(6).

(b) Triennial updates of and amendments to the Florida Building Code which are expressly authorized by s. 553.73.

(c) Triennial updates of and amendments to the Florida Fire Prevention Code which are expressly authorized by s. 633.202.

(5) For purposes of subsections (2) and (3), adverse impacts and regulatory costs likely to occur within 5 years after implementation of the rule include adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of such provision.

History.—s. 11, ch. 96-159; s. 4, ch. 97-176; ss. 2, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 1, ch. 2011-222; s. 2, ch. 2011-225; s. 92, ch. 2013-183; s. 1, ch. 2016-232.

1Note.—As amended by s. 92, ch. 2013-183, which amended subsection (4) as amended by s. 1, ch. 2011-222. Section 2, ch. 2011-225, also amended subsection (4), and the language of that version conflicted with the version by s. 1, ch. 2011-222. As amended by s. 2, ch. 2011-225, subsection (4) reads:

(4) This section does not apply to the adoption of emergency rules pursuant to s. 120.54(4) or the adoption of federal standards pursuant to s. 120.54(6).

120.542 VARIANCES AND WAIVERS

(1) Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. A public employee is not a person subject to regulation under this section for the purpose of petitioning for a variance or waiver to a rule that affects that public employee in his or her capacity as a public employee. Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section. An agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved. This section does not authorize agencies to grant variances or waivers to statutes or to rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate agency of the Federal Government. This section is supplemental to, and does not abrogate, the variance and waiver provisions in any other statute.

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(3) The Governor and Cabinet, sitting as the Administration Commission, shall adopt uniform rules of procedure pursuant to the requirements of s. 120.54(5) establishing procedures for granting or denying petitions for variances and waivers. The uniform rules shall include procedures for the granting, denying, or revoking of emergency and temporary variances and waivers. Such provisions may provide for expedited timeframes, waiver of or limited public notice, and limitations on comments on the petition in the case of such temporary or emergency variances and waivers.

(4) Agencies shall advise persons of the remedies available through this section and shall provide copies of this section, the uniform rules on variances and waivers, and, if requested, the underlying statute, to persons who inquire about the possibility of relief from rule requirements.

(5) A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule. In addition to any requirements mandated by the uniform rules, each petition shall specify:

(a) The rule from which a variance or waiver is requested.

(b) The type of action requested.

(c) The specific facts that would justify a waiver or variance for the petitioner.

(d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(6) Within 15 days after receipt of a petition for variance or waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Register. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the

rule from which variance or waiver is sought, and an explanation of how a copy of the petition can be obtained. The uniform rules shall provide a means for interested persons to provide comments on the petition.

(7) Except for requests for emergency variances or waivers, within 30 days after receipt of a petition for a variance or waiver, an agency shall review the petition and request submittal of all additional information that the agency is permitted by this section to require. Within 30 days after receipt of such additional information, the agency shall review it and may request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the petitioner asserts that any request for additional information is not authorized by law or by rule of the affected agency, the agency shall proceed, at the petitioner's written request, to process the petition.

(8) An agency shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. A petition not granted or denied within 90 days after receipt of a completed petition is deemed approved. A copy of the order granting or denying the petition shall be filed with the committee and shall contain a statement of the relevant facts and reasons supporting the agency's action. The agency shall provide notice of the disposition of the petition to the Department of State, which shall publish the notice in the next available issue of the Florida Administrative Register. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which the waiver or variance is sought, a reference to the place and date of publication of the notice of the petition, the date of the order denying or approving the variance or waiver, the general basis for the agency decision, and an explanation of how a copy of the order can be obtained. The agency's decision to grant or deny the petition shall be supported by competent substantial evidence and is subject to ss. 120.569 and 120.57. Any proceeding pursuant to ss. 120.569 and 120.57 in regard to a variance or waiver shall be limited to the agency action on the request for the variance or waiver, except that a proceeding in regard to a variance or waiver may be consolidated with any other proceeding authorized by this chapter.

(9) Each agency shall maintain a record of the type and disposition of each petition, including temporary or emergency variances and waivers, filed pursuant to this section.

History.—s. 12, ch. 96-159; s. 5, ch. 97-176; s. 37, ch. 2010-102; s. 5, ch. 2013-14.

120.545 COMMITTEE REVIEW OF AGENCY RULES

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule's statement of estimated regulatory costs complies with the requirements of s. 120.541 and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the adoption of such rule, the agency is within its statutory authority, and the rule was adopted in compliance with the requirements and limitations of s. 120.54(4).

(2) The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by subsection (1). The committee shall consult with legislative standing committees having jurisdiction over the subject areas. If the committee objects to a rule, the committee shall, within 5 days after the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

(3) Within 30 days after receipt of the objection, if the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is not yet in effect:

1. File notice pursuant to s. 120.54(3)(d) of only such modifications as are necessary to address the committee's objection;

2. File notice pursuant to s. 120.54(3)(d) of withdrawal of the rule; or

3. Notify the committee in writing that it refuses to modify or withdraw the rule.

(b) If the rule is in effect:

1. File notice pursuant to s. 120.54(3)(a), without prior notice of rule development, to amend the rule to address the committee's objection;

2. File notice pursuant to s. 120.54(3)(a) to repeal the rule; or

3. Notify the committee in writing that the agency refuses to amend or repeal the rule.

(c) If the objection is to the statement of estimated regulatory costs:
1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Register, and file a copy of the corrected statement with the committee; or
2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.
(4) Failure of the agency to respond to a committee objection to a rule that is not yet in effect within the time prescribed in subsection (3) constitutes withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Register. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.
(5) Failure of the agency to respond to a committee objection to a rule that is in effect within the time prescribed in subsection (3) constitutes a refusal to amend or repeal the rule.
(6) Failure of the agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed in subsection (3) constitutes a refusal to prepare a corrected statement of estimated regulatory costs.
(7) If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Register. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Register in which the full text thereof appears shall be recorded in a history note.
(8)(a) If the committee objects to a rule, or portion of a rule, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection.
(b)1. If the committee votes to recommend the introduction of legislation to address the committee's objection, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.
2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall:
a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or
b. Notify the committee in writing that the agency refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.
3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative Register. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule, continues to be subject to administrative determination and judicial review as provided by law.
4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.
(c) The committee shall prepare proposed legislation to address the committee's objection in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed legislation shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.
(d) If proposed legislation addressing the committee's objection fails to become law, any temporary agency suspension shall expire.
History.—s. 4, ch. 76-131; s. 1, ch. 77-174; s. 6, ch. 80-391; s. 3, ch. 81-309; s. 4, ch. 87-385; s. 8, ch. 92-166; s. 20, ch. 95-280; s. 14, ch. 96-159; s. 16, ch. 2000-151; s. 18, ch. 2008-4; s. 7, ch. 2008-104; s. 6, ch. 2013-14.

120.55 PUBLICATION

(1) The Department of State shall:
(a)1. Through a continuous revision and publication system, compile and publish electronically, on a website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority and the specific law implemented pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(7), complete indexes to all rules contained in the code, and any other material required or authorized by law or deemed useful by the department. The electronic code shall display each rule chapter currently in effect in browse mode and allow full text search of the code and each rule chapter. The department may contract with a publishing firm for a printed publication; however, the department shall retain responsibility for the code as provided in this section. The electronic publication shall be the official compilation of the administrative rules of this state. The Department of State shall retain the copyright over the Florida Administrative Code.
2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or state university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.
4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.
5. The department shall allow adopted rules and material incorporated by reference to be filed in electronic form as prescribed by department rule. When a rule is filed for adoption with incorporated material in electronic form, the department's publication of the Florida Administrative Code on its website must contain a hyperlink from the incorporating reference in the rule directly to that material. The department may not allow hyperlinks from rules in the Florida Administrative Code to any material other than that filed with and maintained by the department, but may allow hyperlinks to incorporated material maintained by the department from the adopting agency's website or other sites.
(b) Electronically publish on a website managed by the department a continuous revision and publication entitled the "Florida Administrative Register," which shall serve as the official publication and must contain:
1. All notices required by s. 120.54(2) and (3)(a), showing the text of all rules proposed for consideration.
2. All notices of public meetings, hearings, and workshops conducted in accordance with s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.
3. A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.
4. Notice of petitions for declaratory statements or administrative determinations.
5. A summary of each objection to any rule filed by the Administrative Procedures Committee.
6. A list of rules filed for adoption in the previous 7 days.
7. A list of all rules filed for adoption pending legislative ratification under s. 120.541(3). A rule shall be removed from the list once notice of ratification or withdrawal of the rule is received.
8. Any other material required or authorized by law or deemed useful by the department.
The department may contract with a publishing firm for a printed publication of the Florida Administrative Register and make copies available on an annual subscription basis.
(c) Prescribe by rule the style and form required for rules, notices, and other materials submitted for filing.
(d) Charge each agency using the Florida Administrative Register a space rate to cover the costs related to the Florida Administrative Register and the Florida Administrative Code.
(e) Maintain a permanent record of all notices published in the Florida Administrative Register.
(2) The Florida Administrative Register website must allow users to:
(a) Search for notices by type, publication date, rule number, word, subject, and agency.
(b) Search a database that makes available all notices published on the website for a period of at least 5 years.
(c) Subscribe to an automated e-mail notification of selected notices to be sent out before or concurrently with publication of the electronic Florida Administrative Register. Such notification must include in the text of the e-mail a summary of the content of each notice.
(d) View agency forms and other materials submitted to the department in electronic form and incorporated by reference in proposed rules.
(e) Comment on proposed rules.
(3) Publication of material required by paragraph (1)(b) on the Florida Administrative Register website does not preclude publication of such material on an agency's website or by other means.
(4) Each agency shall provide copies of its rules upon request, with citations to the grant of rulemaking authority and the specific law implemented for each rule.
(5) Each agency that provides an e-mail notification service to inform licensees or other registered recipients of notices shall use that service to notify recipients of each notice required under s. 120.54(2) and (3) and provide Internet links to the appropriate rule page on the Secretary of State's website or Internet links to an agency website that contains the proposed rule or final rule.
(6) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Register or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the agency head who approved the rule, and the date upon which the rule was approved.
(7) Access to the Florida Administrative Register website and its contents, including the e-mail notification service, shall be free for the public.
(8)(a) All fees and moneys collected by the Department of State under this chapter shall be deposited in the Records Management Trust Fund for the purpose of paying for costs incurred by the department in carrying out this chapter.
(b) The unencumbered balance in the Records Management Trust Fund for fees collected pursuant to this chapter may not exceed $300,000 at the beginning of each fiscal year, and any excess shall be transferred to the General Revenue Fund.
(9) The failure to comply with this section may not be raised in a proceeding challenging the validity of a rule pursuant to s. 120.52(8)(a).
History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 77-453; s. 3, ch. 78-425;

s. 4, ch. 79-299; s. 7, ch. 80-391; s. 4, ch. 81-309; s. 1, ch. 82-19; s. 1, ch. 82-47; s. 3, ch. 83-351; s. 3, ch. 84-203; s. 17, ch. 87-224; s. 1, ch. 87-322; s. 20, ch. 91-45; s. 15, ch. 96-159; s. 896, ch. 2002-387; s. 5, ch. 2004-235; s. 14, ch. 2004-335; s. 4, ch. 2006-82; ss. 8, 9, ch. 2008-104; ss. 11, 12, ch. 2010-5; s. 2, ch. 2012-63; s. 2, ch. 2016-116.

120.555 SUMMARY REMOVAL OF PUBLISHED RULES NO LONGER IN FORCE AND EFFECT

When, as part of the continuous revision system authorized in s. 120.55(1)(a)1. or as otherwise provided by law, the Department of State is in doubt whether a rule published in the official version of the Florida Administrative Code is still in full force and effect, the procedure in this section shall be employed.

(1) The Department of State shall submit to the head of the agency with authority to repeal or amend the rule, if any, or if no such agency can be identified, to the Governor, a written request for a statement as to whether the rule is still in full force and effect. A copy of the request shall be promptly delivered to the committee and to the Attorney General. The Department of State shall publish a notice of the request together with a copy of the request in the Florida Administrative Register next available after delivery of the request to the head of the agency or the Governor.

(2) No later than 90 days after the date the notice required in subsection (1) is published, the agency or the Governor, notified pursuant to subsection (1), shall file a written response with the Department of State stating whether the rule is in full force and effect and under the jurisdiction of an agency with full authority to amend or repeal the rule. Failure to respond timely under this subsection constitutes an acknowledgment by the agency or the Governor that the rule is no longer in effect and is subject to summary repeal under this section.

(3) The Department of State shall publish a notice of the agency's or Governor's timely response or the acknowledgment determined under subsection (2) in the Florida Administrative Register next available after receipt of the response or the expiration of the response period, whichever occurs first.

(4) If the response states that the rule is no longer in effect, or if no response is filed timely with the Department of State, the notice required in subsection (3) shall also give notice of the following:

(a) Based on the agency's or Governor's written response or the acknowledgment determined under subsection (2), the rule will be repealed summarily pursuant to this section and removed from the Florida Administrative Code.

(b) Any objection to the summary repeal under this section must be filed as a petition challenging a proposed rule under s. 120.56 and must be filed no later than 21 days after the date the notice is published in the Florida Administrative Register.

(c) For purposes only of challenging a summary repeal under this section, the agency with current authority to repeal the rule under s. 120.54 shall be named as the respondent in the petition and shall be the proper party in interest. In such circumstances, the Department of State shall not be named as a party in a petition filed under paragraph (b) and this paragraph.

(d) If no agency currently has authority to repeal the rule under s. 120.54, the Department of State shall be named as the respondent in a petition filed under paragraph (b) and this paragraph. The Attorney General shall represent the Department of State in all proceedings under this paragraph.

(5) Upon the expiration of the 21-day period to file an objection to a notice of summary repeal published pursuant to subsection (4), if no timely objection is filed, or, if a timely objection is filed, on the date a decision finding the rule is no longer in effect becomes final, the Department of State shall update the Florida Administrative Code to remove the rule and shall provide historical notes identifying the manner in which the rule ceased to have effect, including the summary repeal pursuant to this section.

History.—s. 2, ch. 2012-31; s. 7, ch. 2013-14.

120.56 CHALLENGES TO RULES

(1) GENERAL PROCEDURES.—

(a) Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(b) The petition challenging the validity of a proposed or adopted rule under this section must state:

1. The particular provisions alleged to be invalid and a statement of the facts or grounds for the alleged invalidity.

2. Facts sufficient to show that the petitioner is substantially affected by the challenged adopted rule or would be substantially affected by the proposed rule.

(c) The petition shall be filed by electronic means with the division which shall, immediately upon filing, forward by electronic means copies to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if the petition complies with paragraph (b), assign an administrative law judge who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown. Evidence of good cause includes, but is not limited to, written notice of an agency's decision to modify or withdraw the proposed rule or a written notice from the chair of the committee stating that the committee will consider an objection to the rule at its next scheduled meeting. The failure of an agency to follow the applicable rulemaking procedures or requirements set forth in this chapter shall be presumed to be material; however, the agency may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within 30 days after the hearing, the administrative law judge shall render a decision and state the reasons for his or her decision in writing. The division shall forthwith transmit by electronic means copies of the administrative law judge's decision to the agency, the Department of State, and the committee.

(e) Hearings held under this section shall be de novo in nature. The standard of proof shall be the preponderance of the evidence. Hearings shall be conducted in the same manner as provided by ss. 120.569 and 120.57, except that the administrative law judge's order shall be final agency action. The petitioner and the agency whose rule is challenged shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall

not unduly delay the proceedings. Failure to proceed under this section does not constitute failure to exhaust administrative remedies.

(2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

(a) A petition alleging the invalidity of a proposed rule shall be filed within 21 days after the date of publication of the notice required by s. 120.54(3)(a); within 10 days after the final public hearing is held on the proposed rule as provided by s. 120.54(3)(e)2.; within 20 days after the statement of estimated regulatory costs or revised statement of estimated regulatory costs, if applicable, has been prepared and made available as provided in s. 120.541(1)(d); or within 20 days after the date of publication of the notice required by s. 120.54(3)(d). The petitioner has the burden to prove by a preponderance of the evidence that the petitioner would be substantially affected by the proposed rule. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority as to the objections raised. A person who is not substantially affected by the proposed rule as initially noticed, but who is substantially affected by the rule as a result of a change, may challenge any provision of the resulting proposed rule.

(b) The administrative law judge may declare the proposed rule wholly or partly invalid. Unless the decision of the administrative law judge is reversed on appeal, the proposed rule or provision of a proposed rule declared invalid shall not be adopted. After a petition for administrative determination has been filed, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Register.

(c) When any substantially affected person seeks determination of the invalidity of a proposed rule pursuant to this section, the proposed rule is not presumed to be valid or invalid.

(3) CHALLENGING RULES IN EFFECT; SPECIAL PROVISIONS.—

(a) A petition alleging the invalidity of an existing rule may be filed at any time during which the rule is in effect. The petitioner has the burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of delegated legislative authority as to the objections raised.

(b) The administrative law judge may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Register in the first available issue after the rule has become void.

(4) CHALLENGING AGENCY STATEMENTS DEFINED AS UNADOPTED RULES; SPECIAL PROVISIONS.—

(a) Any person substantially affected by an agency statement that is an unadopted rule may seek an administrative determination that the statement violates s. 120.54(1)(a). The petition shall include the text of the statement or a description of the statement and shall state facts sufficient to show that the statement constitutes an unadopted rule.

(b) The administrative law judge may extend the hearing date beyond 30 days after assignment of the case for good cause. Upon notification to the administrative law judge provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3), such notice shall automatically operate as a stay of proceedings pending adoption of the statement as a rule. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings pending rulemaking shall remain in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule.

(c) If a hearing is held and the petitioner proves the allegations of the petition, the agency shall have the burden of proving that rulemaking is not feasible or not practicable under s. 120.54(1)(a).

(d) The administrative law judge may determine whether all or part of a statement violates s. 120.54(1)(a). The decision of the administrative law judge shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Register.

(e) If an administrative law judge enters a final order that all or part of an unadopted rule violates s. 120.54(1)(a), the agency must immediately discontinue all reliance upon the unadopted rule or any substantially similar statement as a basis for agency action.

(f) If proposed rules addressing the challenged unadopted rule are determined to be an invalid exercise of delegated legislative authority as defined in s. 120.52(8)(b)-(f), the agency must immediately discontinue reliance upon the unadopted rule and any substantially similar statement until rules addressing the subject are properly adopted, and the administrative law judge shall enter a final order to that effect.

(g) All proceedings to determine a violation of s. 120.54(1)(a) shall be brought pursuant to this subsection. A proceeding pursuant to this subsection may be consolidated with a proceeding under subsection (3) or under any other section of this chapter. This paragraph does not prevent a party whose substantial interests have been determined by an agency action from bringing a proceeding pursuant to s. 120.57(1)(e).

(5) CHALLENGING EMERGENCY RULES; SPECIAL PROVISIONS.—Challenges to the validity of an emergency rule shall be subject to the following time schedules in lieu of those established by paragraphs (1)(c) and (d). Within 7 days after receiving the petition, the division director shall, if the petition complies with paragraph (1)(b), assign an administrative law judge, who shall conduct a hearing within 14 days, unless the petition is withdrawn. The administrative law judge shall render a decision within 14 days after the hearing.

History.—s. 1, ch. 74-310; s. 5, ch. 75-191; s. 6, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 78-425; s. 759, ch. 95-147; s. 16, ch. 96-159; s. 6, ch. 97-176; s. 5, ch. 99-379; s. 3, ch. 2003-94; s. 5, ch. 2006-82; ss. 10, 11, ch. 2008-104; ss. 3, 5, ch. 2010-279; HJR

9-A, 2010 Special Session A; s. 10, ch. 2011-208; s. 3, ch. 2011-225; s. 8, ch. 2013-14; s. 3, ch. 2016-116.

120.565 DECLARATORY STATEMENT BY AGENCIES

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.
(3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Register and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Register. Agency disposition of petitions shall be final agency action.
History.—s. 6, ch. 75-191; s. 7, ch. 76-131; s. 5, ch. 78-425; s. 5, ch. 79-299; s. 760, ch. 95-147; s. 17, ch. 96-159; s. 9, ch. 2013-14.

120.569 DECISIONS WHICH AFFECT SUBSTANTIAL INTERESTS

(1) The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under s. 120.573 or s. 120.574. Unless waived by all parties, s. 120.57(1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, s. 120.57(2) applies in all other cases. If a disputed issue of material fact arises during a proceeding under s. 120.57(2), then, unless waived by all parties, the proceeding under s. 120.57(2) shall be terminated and a proceeding under s. 120.57(1) shall be conducted. Parties shall be notified of any order, including a final order. Unless waived, a copy of the order shall be delivered or mailed to each party or the party's attorney of record at the address of record. Each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review; and shall state the time limits which apply.
(2)(a) Except for any proceeding conducted as prescribed in s. 120.56, a petition or request for a hearing under this section shall be filed with the agency. If the agency requests an administrative law judge from the division, it shall so notify the division by electronic means through the division's website within 15 days after receipt of the petition or request. A request for a hearing shall be granted or denied within 15 days after receipt. On the request of any agency, the division shall assign an administrative law judge with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to a proceeding under s. 120.57(1), except as a party litigant, as long as the division has jurisdiction over the proceeding under s. 120.57(1). Any party may request the disqualification of the administrative law judge by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.
(b) All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. The notice shall include:
1. A statement of the time, place, and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
(c) Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b). Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable. This paragraph does not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition.
(d) The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).
(e) All pleadings, motions, or other papers filed in the proceeding must be signed by the party, the party's attorney, or the party's qualified representative. The signature constitutes a certificate that the person has read the pleading, motion, or other paper and that, based upon reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay, or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the presiding officer shall impose upon the person who signed it, the represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.
(f) The presiding officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. However, no presiding officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legislative duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(g) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath.
(h) Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.
(i) When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.
(j) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.
(k)1. Any person subject to a subpoena may, before compliance and on timely petition, request the presiding officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material.
2. A party may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued under the authority of this chapter by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena or order resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged under subparagraph 1. The court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order whenever the court determines that such an award should be granted under the Florida Rules of Civil Procedure.
3. Any public employee subpoenaed to appear at an agency proceeding shall be entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement, and in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.
(l) Unless the time period is waived or extended with the consent of all parties, the final order in a proceeding which affects substantial interests must be in writing and include findings of fact, if any, and conclusions of law separately stated, and it must be rendered within 90 days:
1. After the hearing is concluded, if conducted by the agency;
2. After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by an administrative law judge; or
3. After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.
(m) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, must be accompanied by a concise and explicit statement of the underlying facts of record which support the findings.
(n) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or enjoinable from the date rendered.
(o) On the request of any party, the administrative law judge shall enter an initial scheduling order to facilitate the just, speedy, and inexpensive determination of the proceeding. The initial scheduling order shall establish a discovery period, including a deadline by which all discovery shall be completed, and the date by which the parties shall identify expert witnesses and their opinions. The initial scheduling order also may require the parties to meet and file a joint report by a date certain.
(p) For any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding is for the permit applicant to present a prima facie case demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the license, permit, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or conceptual approval through the presentation of competent and substantial evidence. The permit applicant and agency may on rebuttal present any evidence relevant to demonstrating that the application meets the conditions for issuance. Notwithstanding subsection (1), this paragraph applies to proceedings under s. 120.574.
History.—s. 18, ch. 96-159; s. 7, ch. 97-176; s. 4, ch. 98-200; s. 4, ch. 2003-94; s. 6, ch. 2006-82; s. 14, ch. 2008-104; s. 11, ch. 2011-208; s. 10, ch. 2011-225.

120.57 ADDITIONAL PROCEDURES FOR PARTICULAR CASES

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—
(a) Except as provided in ss. 120.80 and 120.81, an administrative law judge assigned by the division shall conduct all hearings under this subsection, except for hearings before agency heads or a member thereof. If the administrative law judge assigned to a hearing becomes unavailable, the division shall assign another administrative law judge who shall use any existing record and receive any additional evidence or argument, if any, which the new administrative law judge finds necessary.
(b) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the presiding

officer's recommended order, and to be represented by counsel or other qualified representative. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut the material.

(c) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(d) Notwithstanding s. 120.569(2)(g), similar fact evidence of other violations, wrongs, or acts is admissible when relevant to prove a material fact in issue, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity. When the state in an administrative proceeding intends to offer evidence of other acts or offenses under this paragraph, the state shall furnish to the party whose substantial interests are being determined and whose other acts or offenses will be the subject of such evidence, no fewer than 10 days before commencement of the proceeding, a written statement of the acts or offenses it intends to offer, describing them and the evidence the state intends to offer with particularity. Notice is not required for evidence of acts or offenses which is used for impeachment or on rebuttal.

(e)1. An agency or an administrative law judge may not base agency action that determines the substantial interests of a party on an unadopted rule or a rule that is an invalid exercise of delegated legislative authority. This subparagraph does not preclude application of valid adopted rules and applicable provisions of law to the facts.

2. In a matter initiated as a result of agency action proposing to determine the substantial interests of a party, the party's timely petition for hearing may challenge the proposed agency action based on a rule that is an invalid exercise of delegated legislative authority or based on an alleged unadopted rule. For challenges brought under this subparagraph:

a. The challenge may be pled as a defense using the procedures set forth in s. 120.56(1)(b).

b. Section 120.56(3)(a) applies to a challenge alleging that a rule is an invalid exercise of delegated legislative authority.

c. Section 120.56(4)(c) applies to a challenge alleging an unadopted rule.

d. This subparagraph does not preclude the consolidation of any proceeding under s. 120.56 with any proceeding under this paragraph.

3. Notwithstanding subparagraph 1., if an agency demonstrates that the statute being implemented directs it to adopt rules, that the agency has not had time to adopt those rules because the requirement was so recently enacted, and that the agency has initiated rulemaking and is proceeding expeditiously and in good faith to adopt the required rules, then the agency's action may be based upon those unadopted rules if the administrative law judge determines that rulemaking is neither feasible nor practicable and the unadopted rules would not constitute an invalid exercise of delegated legislative authority if adopted as rules. An unadopted rule shall not be presumed valid. The agency must demonstrate that the unadopted rule:

a. Is within the powers, functions, and duties delegated by the Legislature or, if the agency is operating pursuant to authority vested in the agency by the State Constitution, is within that authority;

b. Does not enlarge, modify, or contravene the specific provisions of law implemented;

c. Is not vague, establishes adequate standards for agency decisions, or does not vest unbridled discretion in the agency;

d. Is not arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational;

e. Is not being applied to the substantially affected party without due notice; and

f. Does not impose excessive regulatory costs on the regulated person, county, or city.

4. The recommended and final orders in any proceeding shall be governed by paragraphs (k) and (l), except that the administrative law judge's determination regarding an unadopted rule under subparagraph 1. or subparagraph 2. shall not be rejected by the agency unless the agency first determines from a review of the complete record, and states with particularity in the order, that such determination is clearly erroneous or does not comply with essential requirements of law. In any proceeding for review under s. 120.68, if the court finds that the agency's rejection of the determination regarding the unadopted rule does not comport with this subparagraph, the agency action shall be set aside and the court shall award to the prevailing party the reasonable costs and a reasonable attorney fee for the initial proceeding and the proceeding for review.

5. A petitioner may pursue a separate, collateral challenge under s. 120.56 even if an adequate remedy exists through a proceeding under this section. The administrative law judge may consolidate the proceedings.

(f) The record in a case governed by this subsection shall consist only of:

1. All notices, pleadings, motions, and intermediate rulings.
2. Evidence admitted.
3. Those matters officially recognized.
4. Proffers of proof and objections and rulings thereon.
5. Proposed findings and exceptions.
6. Any decision, opinion, order, or report by the presiding officer.
7. All staff memoranda or data submitted to the presiding officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records.
8. All matters placed on the record after an ex parte communication.
9. The official transcript.

(g) The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost.

(h) Any party to a proceeding in which an administrative law judge has final order authority may move for a summary final order when there is no genuine issue as to any material fact. A

summary final order shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order shall consist of findings of fact, if any, conclusions of law, a disposition or penalty, if applicable, and any other information required by law to be contained in the final order.

(i) When, in any proceeding conducted pursuant to this subsection, a dispute of material fact no longer exists, any party may move the administrative law judge to relinquish jurisdiction to the agency. An order relinquishing jurisdiction shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with supporting and opposing affidavits, if any, that no genuine issue as to any material fact exists. If the administrative law judge enters an order relinquishing jurisdiction, the agency may promptly conduct a proceeding pursuant to subsection (2), if appropriate, but the parties may not raise any issues of disputed fact that could have been raised before the administrative law judge. An order entered by an administrative law judge relinquishing jurisdiction to the agency based upon a determination that no genuine dispute of material fact exists, need not contain findings of fact, conclusions of law, or a recommended disposition or penalty.

(j) Findings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute, and shall be based exclusively on the evidence of record and on matters officially recognized.

(k) The presiding officer shall complete and submit to the agency and all parties a recommended order consisting of findings of fact, conclusions of law, and recommended disposition or penalty, if applicable, and any other information required by law to be contained in the final order. All proceedings conducted under this subsection shall be de novo. The agency shall allow each party 15 days in which to submit written exceptions to the recommended order. The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record.

(l) The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action.

(m) If a recommended order is submitted to an agency, the agency shall provide a copy of its final order and any exceptions to the division within 15 days after the order is filed with the agency clerk.

(n) Notwithstanding any law to the contrary, when statutes or rules impose conflicting time requirements for the scheduling of expedited hearings or issuance of recommended or final orders, the director of the division shall have the authority to set the proceedings for the orderly operation of this chapter.

(2) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—In any case to which subsection (1) does not apply:

(a) The agency shall:

1. Give reasonable notice to affected persons of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.
2. Give parties or their counsel the option, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the action of the agency or to its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.
3. If the objections of the parties are overruled, provide a written explanation within 7 days.

(b) An agency may not base agency action that determines the substantial interests of a party on an unadopted rule or a rule that is an invalid exercise of delegated legislative authority.

(c) The record shall only consist of:

1. The notice and summary of grounds.
2. Evidence received.
3. All written statements submitted.
4. Any decision overruling objections.
5. All matters placed on the record after an ex parte communication.
6. The official transcript.
7. Any decision, opinion, order, or report by the presiding officer.

(3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter shall use the uniform rules of procedure, which provide procedures for the resolution of protests arising from the contract solicitation or award process. Such rules shall at least provide that:

(a) The agency shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. This notice shall

contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is adversely affected by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the solicitation. The formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.

(c) Upon receipt of the formal written protest that has been timely filed, the agency shall stop the solicitation or contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d)1. The agency shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to subsection (2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

3. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the agency shall refer the protest to the division by electronic means through the division's website for proceedings under subsection (1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the director of the division shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) In a protest to an invitation to bid or request for proposals procurement, no submissions made after the bid or proposal opening which amend or supplement the bid or proposal shall be considered. In a protest to an invitation to negotiate procurement, no submissions made after the agency announces its intent to award a contract, reject all replies, or withdraw the solicitation which amend or supplement the reply shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed agency action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the solicitation specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended agency action to reject all bids, proposals, or replies, the standard of review by an administrative law judge shall be whether the agency's intended action is illegal, arbitrary, dishonest, or fraudulent.

(g) For purposes of this subsection, the definitions in s. 287.012 apply.

(4) INFORMAL DISPOSITION.—Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(5) APPLICABILITY.—This section does not apply to agency investigations preliminary to agency action.

History.—s. 1, ch. 74-310; s. 7, ch. 75-191; s. 8, ch. 76-131; s. 1, ch. 77-174; s. 5, ch. 77-453; ss. 6, 11, ch. 78-95; s. 6, ch. 78-425; s. 8, ch. 79-7; s. 7, ch. 80-95; s. 4, ch. 80-289; s. 57, ch. 81-259; s. 2, ch. 83-78; s. 9, ch. 83-216; s. 2, ch. 84-173; s. 4, ch. 84-203; ss. 1, 2, ch. 86-108; s. 44, ch. 87-6; ss. 1, 2, ch. 87-54; s. 5, ch. 87-385; s. 1, ch. 90-283; s. 4, ch. 91-30; s. 1, ch. 91-191; s. 22, ch. 92-315; s. 7, ch. 94-218; s. 1420, ch. 95-147; s. 1, ch. 95-328; s. 19, ch. 96-159; s. 1, ch. 96-423; s. 8, ch. 97-176; s. 5, ch. 98-200; s. 3, ch. 98-279; s. 47, ch. 99-2; s. 6, ch. 99-379; s. 2, ch. 2002-207; s. 5, ch. 2003-94; s. 7, ch. 2006-82; s. 12, ch. 2008-104; s. 12, ch. 2011-208; s. 4, ch. 2016-116.

120.573 MEDIATION OF DISPUTES

Each announcement of an agency action that affects substantial interests shall advise whether mediation of the administrative dispute for the type of agency action announced is available and that choosing mediation does not affect the right to an administrative hearing. If the agency and all parties to the administrative action agree to mediation, in writing, within 10 days after the time period stated in the announcement for election of an administrative remedy under ss. 120.569 and 120.57, the time limitations imposed by ss. 120.569 and 120.57 shall be tolled to allow the agency and parties to mediate the administrative dispute. The mediation shall be concluded within 60 days of such agreement unless otherwise agreed by the parties. The mediation agreement shall include provisions for mediator selection, the allocation of costs and fees associated with mediation, and the mediating parties'

understanding regarding the confidentiality of discussions and documents introduced during mediation. If mediation results in settlement of the administrative dispute, the agency shall enter a final order incorporating the agreement of the parties. If mediation terminates without settlement of the dispute, the agency shall notify the parties in writing that the administrative hearing processes under ss. 120.569 and 120.57 are resumed.
History.—s. 20, ch. 96-159; s. 9, ch. 97-176.

120.574 SUMMARY HEARING

(1)(a) Within 5 business days following the division's receipt of a petition or request for hearing, the division shall issue and serve on all original parties an initial order that assigns the case to a specific administrative law judge and provides general information regarding practice and procedure before the division. The initial order shall also contain a statement advising the addressees that a summary hearing is available upon the agreement of all parties under subsection (2) and briefly describing the expedited time sequences, limited discovery, and final order provisions of the summary procedure.
(b) Within 15 days after service of the initial order, any party may file with the division a motion for summary hearing in accordance with subsection (2). If all original parties agree, in writing, to the summary proceeding, the proceeding shall be conducted within 30 days of the agreement, in accordance with the provisions of subsection (2).
(c) Intervenors in the proceeding shall be governed by the decision of the original parties regarding whether the case will proceed in accordance with the summary hearing process and shall not have standing to challenge that decision.
(d) If a motion for summary hearing is not filed within 15 days after service of the division's initial order, the matter shall proceed in accordance with ss. 120.569 and 120.57.
(2) In any case to which this subsection is applicable, the following procedures apply:
(a) Motions shall be limited to the following:
1. A motion in opposition to the petition.
2. A motion requesting discovery beyond the informal exchange of documents and witness lists described in paragraph (b). Upon a showing of necessity, additional discovery may be permitted in the discretion of the administrative law judge, but only if it can be completed not later than 5 days prior to the final hearing.
3. A motion for continuance of the final hearing date.
4. A motion requesting a prehearing conference, or the administrative law judge may require a prehearing conference, for the purpose of identifying: the legal and factual issues to be considered at the final hearing; the names and addresses of witnesses who may be called to testify at the final hearing; documentary evidence that will be offered at the final hearing; the range of penalties that may be imposed upon final hearing; and any other matter that the administrative law judge determines would expedite resolution of the proceeding. The prehearing conference may be held by telephone conference call.
5. During or after any preliminary hearing or conference, any party or the administrative law judge may suggest that the case is no longer appropriate for summary disposition. Following any argument requested by the parties, the administrative law judge may enter an order referring the case back to the formal adjudicatory process described in s. 120.57(1), in which event the parties shall proceed accordingly.
(b) Not later than 5 days prior to the final hearing, the parties shall furnish to each other copies of documentary evidence and lists of witnesses who may testify at the final hearing.
(c) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to be represented by counsel or other qualified representative.
(d) The record in a case governed by this subsection shall consist only of:
1. All notices, pleadings, motions, and intermediate rulings.
2. Evidence received.
3. A statement of matters officially recognized.
4. Proffers of proof and objections and rulings thereon.
5. Matters placed on the record after an ex parte communication.
6. The written decision of the administrative law judge presiding at the final hearing.
7. The official transcript of the final hearing.
(e) The agency shall accurately and completely preserve all testimony in the proceeding and, upon request by any party, shall make a full or partial transcript available at no more than actual cost.
(f) The decision of the administrative law judge shall be rendered within 30 days after the conclusion of the final hearing or the filing of the transcript thereof, whichever is later. The administrative law judge's decision, which shall be final agency action subject to judicial review under s. 120.68, shall include the following:
1. Findings of fact based exclusively on the evidence of record and matters officially recognized.
2. Conclusions of law.
3. Imposition of a fine or penalty, if applicable.
4. Any other information required by law or rule to be contained in a final order.
History.—s. 21, ch. 96-159; s. 10, ch. 97-176; s. 11, ch. 2000-158; s. 10, ch. 2000-336.

120.595 ATTORNEY'S FEES

(1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.57(1).—
(a) The provisions of this subsection are supplemental to, and do not abrogate, other provisions allowing the award of fees or costs in administrative proceedings.
(b) The final order in a proceeding pursuant to s. 120.57(1) shall award reasonable costs and a reasonable attorney's fee to the prevailing party only where the nonprevailing adverse party has been determined by the administrative law judge to have participated in the proceeding for an improper purpose.
(c) In proceedings pursuant to s. 120.57(1), and upon motion, the administrative law judge shall determine whether any party participated in the proceeding for an improper purpose as defined by this subsection. In making such determination, the administrative law judge shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same prevailing party and

the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position, and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

(d) In any proceeding in which the administrative law judge determines that a party participated in the proceeding for an improper purpose, the recommended order shall so designate and shall determine the award of costs and attorney's fees.

(e) For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

2. "Costs" has the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

3. "Nonprevailing adverse party" means a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a nonprevailing adverse party. The recommended order shall state whether the change is substantial for purposes of this subsection. In no event shall the term "nonprevailing party" or "prevailing party" be deemed to include any party that has intervened in a previously existing proceeding to support the position of an agency.

(2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION 120.56(2).—If the appellate court or administrative law judge declares a proposed rule or portion of a proposed rule invalid pursuant to s. 120.56(2), a judgment or order shall be rendered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. An agency's actions are "substantially justified" if there was a reasonable basis in law and fact at the time the actions were taken by the agency. If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and reasonable attorney's fees against a party if the appellate court or administrative law judge determines that a party participated in the proceedings for an improper purpose as defined by paragraph (1)(e). No award of attorney's fees as provided by this subsection shall exceed $50,000.

(3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION 120.56(3) AND (5).—If the appellate court or administrative law judge declares a rule or portion of a rule invalid pursuant to s. 120.56(3) or (5), a judgment or order shall be rendered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that its actions were substantially justified or special circumstances exist which would make the award unjust. An agency's actions are "substantially justified" if there was a reasonable basis in law and fact at the time the actions were taken by the agency. If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and reasonable attorney's fees against a party if the appellate court or administrative law judge determines that a party participated in the proceedings for an improper purpose as defined by paragraph (1)(e). No award of attorney's fees as provided by this subsection shall exceed $50,000.

(4) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.56(4).—

(a) If the appellate court or administrative law judge determines that all or part of an agency statement violates s. 120.54(1)(a), or that the agency must immediately discontinue reliance on the statement and any substantially similar statement pursuant to s. 120.56(4)(f), a judgment or order shall be entered against the agency for reasonable costs and reasonable attorney's fees, unless the agency demonstrates that the statement is required by the Federal Government to implement or retain a delegated or approved program or to meet a condition to receipt of federal funds.

(b) Upon notification to the administrative law judge provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3)(a), such notice shall automatically operate as a stay of proceedings pending rulemaking. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings under this paragraph remains in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. The administrative law judge shall award reasonable costs and reasonable attorney's fees accrued by the petitioner prior to the date the notice was published, unless the agency proves to the administrative law judge that it did not know and should not have known that the statement was an unadopted rule. Attorneys' fees and costs under this paragraph and paragraph (a) shall be awarded only upon a finding that the agency received notice that the statement may constitute an unadopted rule at least 30 days before a petition under s. 120.56(4) was filed and that the agency failed to publish the required notice of rulemaking pursuant to s. 120.54(3) that addresses the statement within that 30-day period. Notice to the agency may be satisfied by its receipt of a copy of the s. 120.56(4) petition, a notice or other paper containing substantially the same information, or a petition filed pursuant to s. 120.54(7). An award of attorney's fees as provided by this paragraph may not exceed $50,000.

(c) Notwithstanding the provisions of chapter 284, an award shall be paid from the budget entity of the secretary, executive director, or equivalent administrative officer of the agency, and the agency shall not be entitled to payment of an award or reimbursement for payment of an award under any provision of law.

(d) If the agency prevails in the proceedings, the appellate court or administrative law judge shall award reasonable costs and attorney's fees against a party if the appellate court or administrative law judge determines that the party participated in the proceedings for an improper purpose as defined in paragraph (1)(e) or that the party or the party's attorney knew or should have known that a claim was not supported by the

material facts necessary to establish the claim or would not be supported by the application of then-existing law to those material facts.

(5) APPEALS.—When there is an appeal, the court in its discretion may award reasonable attorney's fees and reasonable costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process, or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion. Upon review of agency action that precipitates an appeal, if the court finds that the agency improperly rejected or modified findings of fact in a recommended order, the court shall award reasonable attorney's fees and reasonable costs to a prevailing appellant for the administrative proceeding and the appellate proceeding.

(6) OTHER SECTIONS NOT AFFECTED.—Other provisions, including ss. 57.105 and 57.111, authorize the award of attorney's fees and costs in administrative proceedings. Nothing in this section shall affect the availability of attorney's fees and costs as provided in those sections.

History.—s. 25, ch. 96-159; s. 11, ch. 97-176; s. 48, ch. 99-2; s. 6, ch. 2003-94; s. 13, ch. 2008-104; s. 3, ch. 2017-3.

120.60 LICENSING

(1) Upon receipt of a license application, an agency shall examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require. An agency may not deny a license for failure to correct an error or omission or to supply additional information unless the agency timely notified the applicant within this 30-day period. The agency may establish by rule the time period for submitting any additional information requested by the agency. For good cause shown, the agency shall grant a request for an extension of time for submitting the additional information. If the applicant believes the agency's request for additional information is not authorized by law or rule, the agency, at the applicant's request, shall proceed to process the application. An application is complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. An application for a license must be approved or denied within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. The 90-day time period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57. Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after a recommended order is submitted to the agency and the parties, whichever action and timeframe is latest and applicable, is considered approved unless the recommended order recommends that the agency deny the license. Subject to the satisfactory completion of an examination if required as a prerequisite to licensure, any license that is considered approved shall be issued and may include such reasonable conditions as are authorized by law. Any applicant for licensure seeking to claim licensure by default under this subsection shall notify the agency clerk of the licensing agency, in writing, of the intent to rely upon the default license provision of this subsection, and may not take any action based upon the default license until after receipt of such notice by the agency clerk.

(2) If an applicant seeks a license for an activity that is exempt from licensure, the agency shall notify the applicant and return any tendered application fee within 30 days after receipt of the original application.

(3) Each applicant shall be given written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license. The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action. Each notice must inform the recipient of the basis for the agency decision, inform the recipient of any administrative hearing pursuant to ss. 120.569 and 120.57 or judicial review pursuant to s. 120.68 which may be available, indicate the procedure that must be followed, and state the applicable time limits. The issuing agency shall certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk.

(4) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application for renewal has been finally acted upon by the agency or, in case the application is denied or the terms of the license are limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(5) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, plain notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the agency. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county.

(6) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any procedure that is fair under the circumstances if:

(a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;

(b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and

(c) The agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the

circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding pursuant to ss. 120.569 and 120.57 shall also be promptly instituted and acted upon.

(7) No agency shall include as a condition of approval of any license any provision that is based upon a statement, policy, or guideline of another agency unless the statement, policy, or guideline is within the jurisdiction of the other agency. The other agency shall identify for the licensing agency the specific legal authority for each such statement, policy, or guideline. The licensing agency must provide the licensee with an opportunity to challenge the condition as invalid. If the licensing agency bases a condition of approval or denial of the license upon the statement, policy, or guideline of the other agency, any party to an administrative proceeding that arises from the approval with conditions or denial of the license may require the other agency to join as a party in determining the validity of the condition.

History.—s. 1, ch. 74-310; s. 10, ch. 76-131; s. 1, ch. 77-174; ss. 6, 9, ch. 77-453; s. 57, ch. 78-95; s. 8, ch. 78-425; s. 1, ch. 79-142; s. 6, ch. 79-299; s. 2, ch. 81-180; s. 6, ch. 84-203; s. 2, ch. 84-265; s. 1, ch. 85-82; s. 14, ch. 90-51; s. 762, ch. 95-147; s. 26, ch. 96-159; s. 326, ch. 96-410; s. 12, ch. 97-176; s. 7, ch. 2003-94; ss. 4, 5, ch. 2010-279; HJR 9-A, 2010 Special Session A; s. 10, ch. 2012-212.

120.62 AGENCY INVESTIGATIONS

(1) Every person who responds to a request or demand by any agency or representative thereof for written data or an oral statement shall be entitled to a transcript or recording of his or her oral statement at no more than cost.

(2) Any person compelled to appear, or who appears voluntarily, before any presiding officer or agency in an investigation or in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

History.—s. 1, ch. 74-310; s. 763, ch. 95-147; s. 28, ch. 96-159.

120.63 EXEMPTION FROM ACT

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law; or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in s. 120.525. Upon the conclusion of the hearing, the commission, through the Executive Office of the Governor, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption; transmit to the committee and to the Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed; and give notice of the petition and the commission's response in the Florida Administrative Register.

(b) An exemption and any alternative procedure prescribed shall terminate 90 days following adjournment sine die of the then-current or next regular legislative session after issuance of the exemption order, or upon the effective date of any subsequent legislation incorporating the exemption or any partial exemption related thereto, whichever is earlier. The exemption granted by the commission shall be renewable upon the same or similar facts not more than once. Such renewal shall terminate as would an original exemption.

History.—s. 1, ch. 74-310; s. 11, ch. 76-131; s. 1, ch. 77-53; s. 8, ch. 77-453; s. 87, ch. 79-190; s. 7, ch. 79-299; s. 70, ch. 79-400; s. 58, ch. 81-259; s. 29, ch. 96-159; s. 10, ch. 2013-14.

120.65 ADMINISTRATIVE LAW JUDGES

(1) The Division of Administrative Hearings within the Department of Management Services shall be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The director, who shall also serve as the chief administrative law judge, and any deputy chief administrative law judge must possess the same minimum qualifications as the administrative law judges employed by the division. The Deputy Chief Judge of Compensation Claims must possess the minimum qualifications established in s. 440.45(2) and shall report to the director. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

(3) Each state agency as defined in chapter 216 and each political subdivision shall make its facilities available, at a time convenient to the provider, for use by the division in conducting proceedings pursuant to this chapter.
(4) The division shall employ administrative law judges to conduct hearings required by this chapter or other law. Any person employed by the division as an administrative law judge must have been a member of The Florida Bar in good standing for the preceding 5 years.
(5) If the division cannot furnish a division administrative law judge promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate such a hearing officer who is located in that part of the state where the parties and witnesses reside.
(6) The division is authorized to provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this section.
(7) Rules promulgated by the division may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by an administrative law judge, which is not under judicial review.
(8) Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:
(a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.
(b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.
(c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.
(d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).
(9) The division shall be reimbursed for administrative law judge services and travel expenses by the following entities: water management districts, regional planning councils, school districts, community colleges, the Division of Florida Colleges, state universities, the Board of Governors of the State University System, the State Board of Education, the Florida School for the Deaf and the Blind, and the Commission for Independent Education. These entities shall contract with the division to establish a contract rate for services and provisions for reimbursement of administrative law judge travel expenses and video teleconferencing expenses attributable to hearings conducted on behalf of these entities. The contract rate must be based on a total-cost-recovery methodology.
History.—s. 1, ch. 74-310; s. 9, ch. 75-191; s. 14, ch. 76-131; s. 9, ch. 78-425; s. 46, ch. 79-190; s. 1, ch. 86-297; s. 46, ch. 87-6; s. 25, ch. 87-101; s. 54, ch. 88-1; s. 30, ch. 88-277; s. 51, ch. 92-279; s. 23, ch. 92-315; s. 55, ch. 92-326; s. 764, ch. 95-147; s. 31, ch. 96-159; s. 13, ch. 97-176; s. 38, ch. 2000-371; s. 4, ch. 2001-91; s. 1, ch. 2004-247; s. 8, ch. 2006-82; s. 14, ch. 2007-217; s. 8, ch. 2009-228; s. 8, ch. 2013-18.

120.651 DESIGNATION OF TWO ADMINISTRATIVE LAW JUDGES TO PRESIDE OVER ACTIONS INVOLVING DEPARTMENT OR BOARDS

The Division of Administrative Hearings shall designate at least two administrative law judges who shall specifically preside over actions involving the Department of Health or boards within the Department of Health. Each designated administrative law judge must be a member of The Florida Bar in good standing and must have legal, managerial, or clinical experience in issues related to health care or have attained board certification in health care law from The Florida Bar.
History.—s. 32, ch. 2003-416.

120.655 WITHHOLDING FUNDS TO PAY FOR ADMINISTRATIVE LAW JUDGE SERVICES TO SCHOOL BOARDS

If a district school board fails to make a timely payment for the services provided by an administrative law judge of the Division of Administrative Hearings as provided annually in the General Appropriations Act, the Commissioner of Education shall withhold, from any general revenue funds the district is eligible to receive, an amount sufficient to pay for the administrative law judge's services. The commissioner shall transfer the amount withheld to the Division of Administrative Hearings in payment of such services.
History.—s. 1, ch. 92-121; s. 32, ch. 96-159.

120.66 EX PARTE COMMUNICATIONS

(1) In any proceeding under ss. 120.569 and 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the presiding officer by:
(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.
(b) A party to the proceeding, the party's authorized representative or counsel, or any person who, directly or indirectly, would have a substantial interest in the proposed agency action.
Nothing in this subsection shall apply to advisory staff members who do not testify on behalf of the agency in the proceeding or to any rulemaking proceedings under s. 120.54.
(2) A presiding officer, including an agency head or designee, who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The presiding officer may, if necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the entity that appointed the presiding officer shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any presiding officer, including an agency head or designee, who fails to place in the record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed $500 or be subjected to other disciplinary action.
History.—s. 1, ch. 74-310; s. 10, ch. 75-191; s. 12, ch. 76-131; s. 1, ch. 77-174; s. 10, ch. 78-425; s. 765, ch. 95-147; s. 33, ch. 96-159; s. 14, ch. 97-176.

120.665 DISQUALIFICATION OF AGENCY PERSONNEL

(1) Notwithstanding the provisions of s. 112.3143, any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding. If the disqualified individual was appointed, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified. However, if a quorum remains after the individual is disqualified, it shall not be necessary to appoint a substitute.
(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.
History.—s. 1, ch. 74-310; s. 12, ch. 78-425; s. 2, ch. 83-329; s. 767, ch. 95-147; s. 34, ch. 96-159; s. 18, ch. 2013-36.
Note.—Former s. 120.71.

120.68 JUDICIAL REVIEW

(1)(a) A party who is adversely affected by final agency action is entitled to judicial review.
(b) A preliminary, procedural, or intermediate order of the agency or of an administrative law judge of the Division of Administrative Hearings is immediately reviewable if review of the final agency decision would not provide an adequate remedy.
(2)(a) Judicial review shall be sought in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law. All proceedings shall be instituted by filing a notice of appeal or petition for review in accordance with the Florida Rules of Appellate Procedure within 30 days after the rendition of the order being appealed. If the appeal is of an order rendered in a proceeding initiated under s. 120.56, the agency whose rule is being challenged shall transmit a copy of the notice of appeal to the committee.
(b) When proceedings under this chapter are consolidated for final hearing and the parties to the consolidated proceeding seek review of final or interlocutory orders in more than one district court of appeal, the courts of appeal are authorized to transfer and consolidate the review proceedings. The court may transfer such appellate proceedings on its own motion, upon motion of a party to one of the appellate proceedings, or by stipulation of the parties to the appellate proceedings. In determining whether to transfer a proceeding, the court may consider such factors as the interrelationship of the parties and the proceedings, the desirability of avoiding inconsistent results in related matters, judicial economy, and the burden on the parties of reproducing the record for use in multiple appellate courts.
(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency also may grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay is not a prerequisite to a petition to the court for supersedeas. In any event the court shall specify the conditions, if any, upon which the stay or supersedeas is granted.
(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with paragraph (7)(a).
(5) The record for judicial review shall be compiled in accordance with the Florida Rules of Appellate Procedure.
(6)(a) The reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:
1. Order agency action required by law; order agency exercise of discretion when required by law; set aside agency action; remand the case for further agency proceedings; or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and
2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.
(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.
(7) The court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that:
(a) There has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts;
(b) The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing conducted pursuant to ss. 120.569 and 120.57; however, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact;
(c) The fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure;
(d) The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action; or
(e) The agency's exercise of discretion was:
1. Outside the range of discretion delegated to the agency by law;
2. Inconsistent with agency rule;

3. Inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or
4. Otherwise in violation of a constitutional or statutory provision;
but the court shall not substitute its judgment for that of the agency on an issue of discretion.
(8) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.
(9) A petition challenging an agency rule as an invalid exercise of delegated legislative authority shall not be instituted pursuant to this section, except to review an order entered pursuant to a proceeding under s. 120.56 or s. 120.57(1)(e)1. or (2)(b) or an agency's findings of immediate danger, necessity, and procedural fairness prerequisite to the adoption of an emergency rule pursuant to s. 120.54(4), unless the sole issue presented by the petition is the constitutionality of a rule and there are no disputed issues of fact.
(10) If an administrative law judge's final order depends on any fact found by the administrative law judge, the court shall not substitute its judgment for that of the administrative law judge as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside the final order of the administrative law judge or remand the case to the administrative law judge, if it finds that the final order depends on any finding of fact that is not supported by competent substantial evidence in the record of the proceeding.
History.—s. 1, ch. 74-310; s. 13, ch. 76-131; s. 38, ch. 77-104; s. 1, ch. 77-174; s. 11, ch. 78-425; s. 4, ch. 84-173; s. 7, ch. 87-385; s. 36, ch. 90-302; s. 6, ch. 91-30; s. 1, ch. 91-191; s. 10, ch. 92-166; s. 35, ch. 96-159; s. 15, ch. 97-176; s. 8, ch. 2003-94; s. 5, ch. 2016-116.

120.69 ENFORCEMENT OF AGENCY ACTION

(1) Except as otherwise provided by statute:
(a) Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.
(b) A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:
1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.
2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.
(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.
(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.
(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed $1,000.
(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action, on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.
(4) In all enforcement proceedings:
(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(7)(a).
(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.
(c) Should any party willfully fail to comply with an order of the court, the court shall punish that party in accordance with the law applicable to contempt committed by a person in the trial of any other action.
(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.
(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.
(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.
History.—s. 1, ch. 74-310; s. 766, ch. 95-147; s. 36, ch. 96-159.

120.695 NOTICE OF NONCOMPLIANCE; DESIGNATION OF MINOR VIOLATION OF RULES

(1) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules. It is the intent of the Legislature that an agency charged with enforcing rules shall issue a notice of

noncompliance as its first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it.

(2)(a) Each agency shall issue a notice of noncompliance as a first response to a minor violation of a rule. A "notice of noncompliance" is a notification by the agency charged with enforcing the rule issued to the person or business subject to the rule. A notice of noncompliance may not be accompanied with a fine or other disciplinary penalty. It must identify the specific rule that is being violated, provide information on how to comply with the rule, and specify a reasonable time for the violator to comply with the rule. A rule is agency action that regulates a business, occupation, or profession, or regulates a person operating a business, occupation, or profession, and that, if not complied with, may result in a disciplinary penalty.

(b) Each agency shall review all of its rules and designate those for which a violation would be a minor violation and for which a notice of noncompliance must be the first enforcement action taken against a person or business subject to regulation. A violation of a rule is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.

(c)1. No later than June 30, 2017, and after such date within 3 months after any request of the rules ombudsman in the Executive Office of the Governor, each agency shall review its rules and certify to the President of the Senate, the Speaker of the House of Representatives, the committee, and the rules ombudsman those rules that have been designated as rules the violation of which would be a minor violation under paragraph (b), consistent with the legislative intent stated in subsection (1).

2. Beginning July 1, 2017, each agency shall:

a. Publish all rules that the agency has designated as rules the violation of which would be a minor violation, either as a complete list on the agency's website or by incorporation of the designations in the agency's disciplinary guidelines adopted as a rule.

b. Ensure that all investigative and enforcement personnel are knowledgeable about the agency's designations under this section.

3. For each rule filed for adoption, the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation and shall update the listing required by sub-subparagraph 2.a.

(d) The Governor or the Governor and Cabinet, as appropriate, may evaluate the review and designation effects of each agency subject to the direction and supervision of such authority and may direct a different designation than that applied by such agency.

(e) Notwithstanding s. 120.52(1)(a), this section does not apply to:

1. The Department of Corrections;
2. Educational units;
3. The regulation of law enforcement personnel; or
4. The regulation of teachers.

(f) Designation pursuant to this section is not subject to challenge under this chapter.

History.—s. 1, ch. 95-402; s. 6, ch. 2016-116.

120.72 LEGISLATIVE INTENT; REFERENCES TO CHAPTER 120 OR PORTIONS THEREOF

Unless expressly provided otherwise, a reference in any section of the Florida Statutes to chapter 120 or to any section or sections or portion of a section of chapter 120 includes, and shall be understood as including, all subsequent amendments to chapter 120 or to the referenced section or sections or portions of a section.

History.—s. 3, ch. 74-310; s. 1, ch. 76-207; s. 1, ch. 77-174; s. 57, ch. 78-95; s. 13, ch. 78-425; s. 38, ch. 96-159.

120.73 CIRCUIT COURT PROCEEDINGS; DECLARATORY JUDGMENTS

Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to divest the circuit courts of jurisdiction to render declaratory judgments under the provisions of chapter 86.

History.—s. 11, ch. 75-191; s. 14, ch. 78-425.

120.74 AGENCY ANNUAL RULEMAKING AND REGULATORY PLANS; REPORTS

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare a regulatory plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.
2. If rulemaking is necessary to implement the law:

a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.

b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

(b) The plan must also include a listing of each law not otherwise listed pursuant to paragraph (a) which the agency expects to implement by rulemaking before the following July 1, except emergency rulemaking. For each law listed under this paragraph, the plan must state whether the rulemaking is intended to simplify, clarify, increase efficiency, improve coordination with other agencies, reduce regulatory costs, or delete obsolete, unnecessary, or redundant rules.

(c) The plan must include any desired update to the prior year's regulatory plan or supplement published pursuant to subsection (7). If, in a prior year, a law was identified under this paragraph or under subparagraph (a)1. as a law requiring rulemaking to implement but a notice of proposed rule has not been published:

1. The agency shall identify and again list such law, noting the applicable notice of rule development by citation to the Florida Administrative Register; or

2. If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency shall identify such law, reference the citation to the applicable notice of rule development in the Florida Administrative Register, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

(d) The plan must include a certification executed on behalf of the agency by both the agency head, or, if the agency head is a collegial body, the presiding officer; and the individual acting as principal legal advisor to the agency head. The certification must:

1. Verify that the persons executing the certification have reviewed the plan.

2. Verify that the agency regularly reviews all of its rules and identify the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.

(2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

(a) By October 1 of each year, each agency shall:

1. Publish its regulatory plan on its website or on another state website established for publication of administrative law records. A clearly labeled hyperlink to the current plan must be included on the agency's primary website homepage.

2. Electronically deliver to the committee a copy of the certification required in paragraph (1)(d).

3. Publish in the Florida Administrative Register a notice identifying the date of publication of the agency's regulatory plan. The notice must include a hyperlink or website address providing direct access to the published plan.

(b) To satisfy the requirements of paragraph (a), a board established under s. 20.165(4), and any other board or commission receiving administrative support from the Department of Business and Professional Regulation, may coordinate with the Department of Business and Professional Regulation, and a board established under s. 20.43(3)(g) may coordinate with the Department of Health, for inclusion of the board's or commission's plan and notice of publication in the coordinating department's plan and notice and for the delivery of the required documentation to the committee.

(c) A regulatory plan prepared under subsection (1) and any regulatory plan published under this chapter before July 1, 2014, shall be maintained at an active website for 10 years after the date of initial publication on the agency's website or another state website.

(3) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each year:

(a) For each board established under s. 20.165(4) and any other board or commission receiving administrative support from the Department of Business and Professional Regulation, the Department of Business and Professional Regulation shall file with the committee a certification that the department has reviewed each board's and commission's regulatory plan. A certification may relate to more than one board or commission.

(b) For each board established under s. 20.43(3)(g), the Department of Health shall file with the committee a certification that the department has reviewed the board's regulatory plan. A certification may relate to more than one board.

(4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each year, each agency shall publish a notice of rule development under s. 120.54(2) for each law identified in the agency's regulatory plan pursuant to subparagraph (1)(a)1. for which rulemaking is necessary to implement but for which the agency did not report the publication of a notice of rule development under subparagraph (1)(a)2.

(5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for which implementing rulemaking is necessary as identified in the agency's plan pursuant to subparagraph (1)(a)1. or subparagraph (1)(c)1., the agency shall publish a notice of proposed rule pursuant to s. 120.54(3)(a) by April 1 of the year following the deadline for the regulatory plan. This deadline may be extended if the agency publishes a notice of extension in the Florida Administrative Register identifying each rulemaking proceeding for which an extension is being noticed by citation to the applicable notice of rule development as published in the Florida Administrative Register. The agency shall include a concise statement in the notice of extension identifying any issues that are causing the delay in rulemaking. An extension shall expire on October 1 after the April 1 deadline, provided that the regulatory plan due on October 1 may further extend the rulemaking proceeding by identification pursuant to subparagraph (1)(c)1. or conclude the rulemaking proceeding by identification pursuant to subparagraph (1)(c)2. A published regulatory plan may be corrected at any time to accomplish the purpose of extending or concluding an affected rulemaking proceeding and is deemed corrected as of the October 1 due date. Upon publication of a correction, the agency shall publish in the Florida Administrative Register a notice of the date of the correction identifying the affected rulemaking proceeding by applicable citation to the Florida Administrative Register.

(6) CERTIFICATIONS.—Each agency shall file a certification with the committee upon compliance with subsection (4) and upon filing a notice under subsection (5) of either a deadline extension or a regulatory plan correction. A certification may relate to more than one notice or contemporaneous act. The date or dates of compliance shall be noted in each certification.

(7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of the regulatory plan, the agency shall supplement the plan within 30 days after a bill becomes a law if the law is enacted before the next regular session of the Legislature and the law substantively modifies the agency's specifically delegated legal duties, unless the law affects all or most state agencies as identified by letter to the committee from the Governor or the Attorney General. The supplement must include the information required in paragraph (1)(a) and shall be published as required in subsection (2), but no certification or delivery to the committee is required. The agency shall publish in the Florida Administrative Register notice of publication of the supplement, and include a hyperlink on its website or web address for direct access to the published supplement. For each law reported in the supplement, if rulemaking is necessary to implement the law, the agency shall

publish a notice of rule development by the later of the date provided in subsection (4) or 60 days after the bill becomes a law, and a notice of proposed rule shall be published by the later of the date provided in subsection (5) or 120 days after the bill becomes a law. The proposed rule deadline may be extended to the following October 1 by notice as provided in subsection (5). If such proposed rule has not been filed by October 1, a law included in a supplement shall also be included in the next annual plan pursuant to subsection (1).

(8) FAILURE TO COMPLY.—If an agency fails to comply with a requirement of paragraph (2)(a) or subsection (5), within 15 days after written demand from the committee or from the chair of any other legislative committee, the agency shall deliver a written explanation of the reasons for noncompliance to the committee, the President of the Senate, the Speaker of the House of Representatives, and the chair of any legislative committee requesting the explanation of the reasons for noncompliance.

(9) EDUCATIONAL UNITS.—This section does not apply to educational units.

History.—s. 46, ch. 96-399; s. 16, ch. 97-176; s. 9, ch. 2006-82; s. 15, ch. 2008-104; s. 8, ch. 2008-149; s. 4, ch. 2011-225; s. 20, ch. 2014-17; s. 2, ch. 2014-39; s. 2, ch. 2015-162.

120.80 EXCEPTIONS AND SPECIAL REQUIREMENTS; AGENCIES

(1) DIVISION OF ADMINISTRATIVE HEARINGS.—

(a) Division as a party.—Notwithstanding s. 120.57(1)(a), a hearing in which the division is a party may not be conducted by an administrative law judge assigned by the division. An attorney assigned by the Administration Commission shall be the hearing officer.

(b) Workers' compensation.—Notwithstanding s. 120.52(1), a judge of compensation claims, in adjudicating matters under chapter 440, is not an agency or part of an agency for purposes of this chapter.

(2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.—

(a) Marketing orders under chapter 527, chapter 573, or chapter 601 are not rules.

(b) Notwithstanding s. 120.57(1)(a), hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601 need not be conducted by an administrative law judge assigned by the division.

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license 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 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 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 for a new bank, new trust company, new credit union, new savings and loan association, or new licensed family trust company 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 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 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.

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 or to participate through video conference in 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 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.

(4) DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Business and Professional Regulation or a board or member of a board within the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined by chapter 455.

(5) FLORIDA LAND AND WATER ADJUDICATORY COMMISSION.—Notwithstanding the provisions of s.

120.57(1)(a), when the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days after receipt of the notice of appeal if the commission elects to request the assignment of an administrative law judge.

(6) DEPARTMENT OF LAW ENFORCEMENT.—Law enforcement policies and procedures of the Department of Law Enforcement which relate to the following are not rules as defined by this chapter:

(a) The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

(b) The recruitment, management, identity, and remuneration of confidential informants or sources.

(c) Surveillance techniques, the selection of surveillance personnel, and electronic surveillance, including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

(d) The safety and release of hostages.

(e) The provision of security and protection to public figures.

(f) The protection of witnesses.

(7) DEPARTMENT OF CHILDREN AND FAMILIES.—Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Children and Families in the execution of those social and economic programs administered by the former Division of Family Services of the former Department of Health and Rehabilitative Services prior to the reorganization effected by chapter 75-48, Laws of Florida, need not be conducted by an administrative law judge assigned by the division.

(8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(a) Driver licenses.—

1. Notwithstanding s. 120.57(1)(a), hearings regarding driver licensing pursuant to chapter 322 need not be conducted by an administrative law judge assigned by the division.

2. Notwithstanding s. 120.60(5), cancellation, suspension, or revocation of a driver license shall be by personal delivery to the licensee or by first-class mail as provided in s. 322.251.

(b) Wrecker operators.—Notwithstanding s. 120.57(1)(a), hearings held by the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to deny, suspend, or remove a wrecker operator from participating in the wrecker rotation system established by s. 321.051 need not be conducted by an administrative law judge assigned by the division. These hearings shall be held by a hearing officer appointed by the director of the Division of the Florida Highway Patrol.

(9) OFFICE OF INSURANCE REGULATION.—Notwithstanding s. 120.60(1), every application for a certificate of authority as required by s. 624.401 shall be approved or denied within 180 days after receipt of the original application. Any application for a certificate of authority which is not approved or denied within the 180-day period, or within 30 days after conclusion of a public hearing held on the application, shall be deemed approved, subject to the satisfactory completion of conditions required by statute as a prerequisite to licensure.

(10) DEPARTMENT OF ECONOMIC OPPORTUNITY.—

(a) Notwithstanding s. 120.54, the rulemaking provisions of this chapter do not apply to reemployment assistance appeals referees.

(b) Notwithstanding s. 120.54(5), the uniform rules of procedure do not apply to appeal proceedings conducted under chapter 443 by the Reemployment Assistance Appeals Commission, special deputies, or reemployment assistance appeals referees.

(c) Notwithstanding s. 120.57(1)(a), hearings under chapter 443 may not be conducted by an administrative law judge assigned by the division, but instead shall be conducted by the Reemployment Assistance Appeals Commission in reemployment assistance appeals, reemployment assistance appeals referees, and the Department of Economic Opportunity or its special deputies under s. 443.141.

(11) NATIONAL GUARD.—Notwithstanding s. 120.52(16), the enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, organized militia, and unorganized militia, as provided by s. 2, Art. X of the State Constitution, are not rules as defined by this chapter.

(12) PUBLIC EMPLOYEES RELATIONS COMMISSION.—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the Public Employees Relations Commission need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

(13) FLORIDA PUBLIC SERVICE COMMISSION.—

(a) Agency statements that relate to cost-recovery clauses, factors, or mechanisms implemented pursuant to chapter 366, relating to public utilities, are exempt from the provisions of s. 120.54(1)(a).

(b) Notwithstanding ss. 120.569 and 120.57, a hearing on an objection to proposed action of the Florida Public Service Commission may only address the issues in dispute. Issues in the proposed action which are not in dispute are deemed stipulated.

(c) The Florida Public Service Commission is exempt from the time limitations in s. 120.60(1) when issuing a license.

(d) Notwithstanding the provisions of this chapter, in implementing the Telecommunications Act of 1996, Pub. L. No. 104-104, the Public Service Commission is authorized to employ procedures consistent with that act.

(e) Notwithstanding the provisions of this chapter, s. 350.128, or s. 364.381, appellate jurisdiction for Public Service Commission decisions that implement the Telecommunications Act of 1996, Pub. L. No. 104-104, shall be consistent with the provisions of that act.

(f) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(g) Rules adopted by the Florida Public Service Commission to implement ss. 366.04(8) and (9) and 366.97 are not subject to s. 120.541.

(14) DEPARTMENT OF REVENUE.—

(a) Assessments.—An assessment of tax, penalty, or interest by the Department of Revenue is not a final order as defined by this chapter. Assessments by the Department of Revenue shall be deemed final as provided in the statutes and rules governing the assessment and collection of taxes.

(b) Taxpayer contest proceedings.—

1. In any administrative proceeding brought pursuant to this chapter as authorized by s. 72.011(1), the taxpayer shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment or denial of refund under chapter 207, the Department of Highway Safety and Motor Vehicles shall be designated the "respondent," and for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565, the Department of Business and Professional Regulation shall be designated the "respondent."

2. In any such administrative proceeding, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

3.a. Prior to filing a petition under this chapter, the taxpayer shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

b. The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.

4. Except as provided in s. 220.719, further collection and enforcement of the contested amount of an assessment for nonpayment or underpayment of any tax, interest, or penalty shall be stayed beginning on the date a petition is filed. Upon entry of a final order, an agency may resume collection and enforcement action.

5. The prevailing party, in a proceeding under ss. 120.569 and 120.57 authorized by s. 72.011(1), may recover all legal costs incurred in such proceeding, including reasonable attorney's fees, if the losing party fails to raise a justiciable issue of law or fact in its petition or response.

6. Upon review pursuant to s. 120.68 of final agency action concerning an assessment of tax, penalty, or interest with respect to a tax imposed under chapter 212, or the denial of a refund of any tax imposed under chapter 212, if the court finds that the Department of Revenue improperly rejected or modified a conclusion of law, the court may award reasonable attorney's fees and reasonable costs of the appeal to the prevailing appellant.

(c) Proceedings to establish paternity or paternity and child support; orders to appear for genetic testing; proceedings for administrative support orders.—In proceedings to establish paternity or paternity and child support pursuant to s. 409.256 and proceedings for the establishment of administrative support orders pursuant to s. 409.2563, final orders in cases referred by the Department of Revenue to the Division of Administrative Hearings shall be entered by the division's administrative law judge and transmitted to the Department of Revenue for filing and rendering. The Department of Revenue has the right to seek judicial review under s. 120.68 of a final order entered by an administrative law judge. The Department of Revenue or the person ordered to appear for genetic testing may seek immediate judicial review under s. 120.68 of an order issued by an administrative law judge pursuant to s. 409.256(5)(b). Final orders that adjudicate paternity or paternity and child support pursuant to s. 409.256 and administrative support orders rendered pursuant to s. 409.2563 may be enforced pursuant to s. 120.69 or, alternatively, by any method prescribed by law for the enforcement of judicial support orders, except contempt. Hearings held by the Division of Administrative Hearings pursuant to ss. 409.256, 409.2563, and 409.25635 shall be held in the judicial circuit where the person receiving services under Title IV-D resides or, if the person receiving services under Title IV-D does not reside in this state, in the judicial circuit where the respondent resides. If the department and the respondent agree, the hearing may be held in another location. If ordered by the administrative law judge, the hearing may be conducted telephonically or by video conference.

(15) DEPARTMENT OF HEALTH.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the State Surgeon General, the Secretary of Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by chapter 456. Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child Care Food Program; Children's Medical Services Program; the Brain and Spinal Cord Injury Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Families for a hearing officer in these matters.

(16) FLORIDA BUILDING COMMISSION.—

(a) Notwithstanding the provisions of s. 120.542, the Florida Building Commission may not accept a petition for waiver or variance and may not grant any waiver or variance from the requirements of the Florida Building Code.

(b) The Florida Building Commission shall adopt within the Florida Building Code criteria and procedures for alternative means of compliance with the code or local amendments thereto, for enforcement by local governments, local enforcement districts, or other entities authorized by law to enforce the Florida Building Code. Appeals from the denial of the use of alternative means shall be heard by the local board, if one exists, and may be appealed to the Florida Building Commission.

(c) Notwithstanding ss. 120.565, 120.569, and 120.57, the Florida Building Commission and hearing officer panels appointed by the commission in accordance with s. 553.775(3)(c)1. may conduct proceedings to review decisions of local building code officials in accordance with s. 553.775(3)(c).
(d) Section 120.541(3) does not apply to the adoption of amendments and the triennial update to the Florida Building Code expressly authorized by s. 553.73.
(17) STATE FIRE MARSHAL.—Section 120.541(3) does not apply to the adoption of amendments and the triennial update to the Florida Fire Prevention Code expressly authorized by s. 633.202.
(18) DEPARTMENT OF TRANSPORTATION.—Sections 120.54(3)(b) and 120.541 do not apply to the adjustment of tolls pursuant to s. 338.165(3).
(19) FLORIDA GAMING CONTROL COMMISSION.—The Florida Gaming Control Commission is exempt from the hearing and notice requirements of ss. 120.569 and 120.57(1)(a), but only for stewards, judges, and boards of judges when the hearing is to be held for the purpose of the imposition of fines or suspensions as provided by rules of the commission, but not for revocations, and only upon violations of paragraphs (a)-(f). The commission shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:
(a) Horse riding, harness riding, and jai alai game actions in violation of chapter 550.
(b) Application and usage of drugs and medication to horses and jai alai players in violation of chapter 550.
(c) Maintaining or possessing any device which could be used for the injection or other infusion of a prohibited drug to horses and jai alai players in violation of chapter 550.
(d) Suspensions under reciprocity agreements between the commission and regulatory agencies of other states.
(e) Assault or other crimes of violence on premises licensed for pari-mutuel wagering.
(f) Prearranging the outcome of any race or game.
History.—s. 41, ch. 96-159; s. 13, ch. 98-166; s. 10, ch. 99-8; s. 4, ch. 99-397; s. 1, ch. 2000-141; s. 17, ch. 2000-151; s. 2, ch. 2000-160; s. 11, ch. 2000-304; s. 4, ch. 2000-305; ss. 2, 11, ch. 2000-312; s. 4, ch. 2000-355; s. 3, ch. 2000-367; s. 18, ch. 2001-158; s. 2, ch. 2001-279; s. 8, ch. 2002-173; s. 1, ch. 2002-239; s. 3, ch. 2003-36; s. 139, ch. 2003-261; s. 1, ch. 2004-52; s. 7, ch. 2004-334; ss. 12, 13, ch. 2005-39; s. 1, ch. 2005-96; s. 13, ch. 2005-147; s. 1, ch. 2005-209; s. 5, ch. 2006-45; s. 9, ch. 2008-6; s. 16, ch. 2008-104; s. 5, ch. 2009-187; s. 1, ch. 2011-64; s. 50, ch. 2011-142; s. 8, ch. 2011-225; s. 43, ch. 2012-30; s. 12, ch. 2013-14; s. 120, ch. 2013-183; s. 32, ch. 2014-19; s. 37, ch. 2014-97; s. 1, ch. 2021-191; s. 1, ch. 2022-178; s. 3, ch. 2022-179.

120.81 EXCEPTIONS AND SPECIAL REQUIREMENTS; GENERAL AREAS

(1) EDUCATIONAL UNITS.—
(a) Notwithstanding s. 120.536(1) and the flush left provisions of s. 120.52(8), district school boards may adopt rules to implement their general powers under s. 1001.41.
(b) The preparation or modification of curricula by an educational unit is not a rule as defined by this chapter.
(c) Notwithstanding s. 120.52(16), any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 1003.4282, s. 1008.22, or s. 1008.25, or any other statewide educational tests required by law, are not rules.
(d) Notwithstanding any other provision of this chapter, educational units shall not be required to include the full text of the rule or rule amendment in notices relating to rules and need not publish these or other notices in the Florida Administrative Register, but notice shall be made:
1. By publication in a newspaper qualified under chapter 50 in the affected area or on a publicly accessible website as provided in s. 50.0311;
2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and
3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.
(e) Educational units, other than the Florida School for the Deaf and the Blind, shall not be required to make filings with the committee of the documents required to be filed by s. 120.54 or s. 120.55(1)(a)4.
(f) Notwithstanding s. 120.57(1)(a), hearings which involve student disciplinary suspensions or expulsions may be conducted by educational units.
(g) Sections 120.569 and 120.57 do not apply to any proceeding in which the substantial interests of a student are determined by a state university or a community college.
(h) Notwithstanding ss. 120.569 and 120.57, in a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice of hearing requirement may be waived by the agency head or the hearing officer without the consent of parties.
(i) For purposes of s. 120.68, a district school board whose decision is reviewed under the provisions of s. 1012.33 and whose final action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action.
(j) Notwithstanding s. 120.525(2), the agenda for a special meeting of a district school board under authority of s. 1001.372(1) shall be prepared upon the calling of the meeting, but not less than 48 hours prior to the meeting.
(k) Students are not persons subject to regulation for the purposes of petitioning for a variance or waiver to rules of educational units under s. 120.542.
(l) Sections 120.54(3)(b) and 120.541 do not apply to the adoption of rules pursuant to s. 1012.22, s. 1012.27, s. 1012.335, s. 1012.34, or s. 1012.795.
(2) LOCAL UNITS OF GOVERNMENT.—
(a) Local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee of the documents required to be filed by s. 120.54.

(b) Notwithstanding any other provision of this chapter, units of government with jurisdiction in only one county or part thereof need not publish required notices in the Florida Administrative Register, but shall publish these notices in the manner required by their enabling acts for notice of rulemaking or notice of meeting. Notices relating to rules are not required to include the full text of the rule or rule amendment.

(3) PRISONERS AND PAROLEES.—

(a) Notwithstanding s. 120.52(13), prisoners, as defined by s. 944.02, shall not be considered parties in any proceedings other than those under s. 120.54(3)(c) or (7), and may not seek judicial review under s. 120.68 of any other agency action. Prisoners are not eligible to seek an administrative determination of an agency statement under s. 120.56(4). Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(b) Notwithstanding s. 120.54(3)(c), prisoners, as defined by s. 944.02, may be limited by the Department of Corrections to an opportunity to present evidence and argument on issues under consideration by submission of written statements concerning intended action on any department rule.

(c) Notwithstanding ss. 120.569 and 120.57, in a preliminary hearing for revocation of parole, no less than 7 days' notice of hearing shall be given.

(4) REGULATION OF PROFESSIONS.—Notwithstanding s. 120.569(2)(g), in a proceeding against a licensed professional or in a proceeding for licensure of an applicant for professional licensure which involves allegations of sexual misconduct:

(a) The testimony of the victim of the sexual misconduct need not be corroborated.

(b) Specific instances of prior consensual sexual activity between the victim of the sexual misconduct and any person other than the offender is inadmissible, unless:

1. It is first established to the administrative law judge in a proceeding in camera that the victim of the sexual misconduct is mistaken as to the identity of the perpetrator of the sexual misconduct; or

2. If consent by the victim of the sexual misconduct is at issue and it is first established to the administrative law judge in a proceeding in camera that such evidence tends to establish a pattern of conduct or behavior on the part of such victim which is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.

(c) Reputation evidence relating to the prior sexual conduct of a victim of sexual misconduct is inadmissible.

(5) HUNTING AND FISHING REGULATION.—Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the Fish and Wildlife Conservation Commission, is not a rule as defined by this chapter, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting by electronic media.

(6) RISK IMPACT STATEMENT.—The Department of Environmental Protection shall prepare a risk impact statement for any rule that is proposed for approval by the Environmental Regulation Commission and that establishes or changes standards or criteria based on impacts to or effects upon human health. The Department of Agriculture and Consumer Services shall prepare a risk impact statement for any rule that is proposed for adoption that establishes standards or criteria based on impacts to or effects upon human health.

(a) This subsection does not apply to rules adopted pursuant to federally delegated or mandated programs where such rules are identical or substantially identical to the federal regulations or laws being adopted or implemented by the Department of Environmental Protection or Department of Agriculture and Consumer Services, as applicable. However, the Department of Environmental Protection and the Department of Agriculture and Consumer Services shall identify any risk analysis information available to them from the Federal Government that has formed the basis of such a rule.

(b) This subsection does not apply to emergency rules adopted pursuant to this chapter.

(c) The Department of Environmental Protection and the Department of Agriculture and Consumer Services shall prepare and publish notice of the availability of a clear and concise risk impact statement for all applicable rules. The risk impact statement must explain the risk to the public health addressed by the rule and shall identify and summarize the source of the scientific information used in evaluating that risk.

(d) Nothing in this subsection shall be construed to create a new cause of action or basis for challenging a rule nor diminish any existing cause of action or basis for challenging a rule.

History.—s. 42, ch. 96-159; s. 17, ch. 97-176; s. 49, ch. 99-2; s. 65, ch. 99-245; s. 7, ch. 99-379; s. 28, ch. 99-398; s. 4, ch. 2000-214; s. 897, ch. 2002-387; s. 17, ch. 2008-104; s. 4, ch. 2010-78; s. 9, ch. 2011-225; s. 13, ch. 2013-14; s. 37, ch. 2013-35; s. 21, ch. 2014-17; s. 3, ch. 2014-39; s. 24, ch. 2014-184; s. 10, ch. 2021-17; s. 12, ch. 2022-103.

120.82 KEEP OUR GRADUATES WORKING ACT

(1) SHORT TITLE.—This section may be cited as the "Keep Our Graduates Working Act of 2020."

(2) PURPOSE.—The purpose of this act is to ensure that Floridians who graduate from an accredited college or university can maintain their occupational licenses, as defined in subsection (3), and remain in the workforce while they attempt to pay off their student loan debt.

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

(a) "Default" means the failure to repay a student loan according to the terms agreed to in the promissory note.

(b) "Delinquency" means the failure to make a student loan payment when it is due.

(c) "License" means any professional license, certificate, registration, or permit granted by the applicable state authority.

(d) "State authority" means any department, board, or agency with the authority to grant a license to any person in this state.

(e) "Student loan" means a federal-guaranteed or state-guaranteed loan for the purposes of postsecondary education.

(4) STUDENT LOAN DEFAULT; DELINQUENCY.—A state authority may not deny a license, refuse to renew a license, or suspend or revoke a license that it has issued to a person who is in default on or delinquent in the payment of his or her student loans solely on the basis of such default or delinquency.

History.—s. 1, ch. 2020-125.