# *Miami-Dade County*

# *Environmentally Endangered Lands Program*

# *Management Plan*

ENVIRONMENTALLY ENDANGERED LANDS

**Cover photographs and logo: MDC 2006.**

# MIAMI-DADE COUNTY
# ENVIRONMENTALLY ENDANGERED LANDS PROGRAM
# MANAGEMENT PLAN
# PART I

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# List of Acronyms

**CARL – Conservation and Recreation Lands**
**FCT – Florida Communities Trust**
**FDEP – Florida Department of Environmental Protection**
**FDNR – Florida Department of Natural Resources**
**FLEPPC – Florida Exotic Pest Plant Council**
**FNAI – Florida Natural Areas Inventory**
**FTGB – Fairchild Tropical Botanical Garden**
**FWCC – Florida Fish and Wildlife Conservation Commission**
**FS – Florida Statutes**
**GIS – Geographic Information Systems**
**GPS – Global Positioning System**
**LASC – Land Acquisition and Selection Committee**
**MDC – Miami-Dade County**
**MDC-EEL – Miami Dade County Environmentally Endangered Lands**
**USDOI – United States Department of the Interior**
**USEPA – United States Environmental Protection Agency**
**USFWS – United States Fish and Wildlife Service**

## 1.0 Introduction and Structure of Management Plan

The Miami-Dade County Environmentally Endangered Lands (MDC-EEL) Program came into existence as the result of the will of concerned citizens to counteract the effect of development. It started in 1990, when Miami-Dade County voters approved a two-year property tax to fund the acquisition, protection, and maintenance of environmentally endangered lands.

The MDC-EEL Program defines an environmentally endangered land as a parcel that contains natural forest, wetland or native plant communities, imperiled biota, endemic species, endangered species habitat, a diversity of species, outstanding geologic or other natural features, or land that functions as an integral and sustaining component of an existing ecosystem.

To date, the MDC-EEL Program, together with its partners, has acquired more than 21,000 acres of environmentally endangered lands since 1990. The purchase and proper management of these lands ensure that they are shielded from development and will continue to thrive as natural habitats. Acquiring, protecting, and restoring these habitats is important not only for the protection of associated biodiversity, but also because they provide "open green space" in an ever growing city. Open space is important for livability, but also for the recharge of our drinking water aquifer and to prevent flooding during heavy rains. Especially important is preserving the natural history of South Florida – diverse wildlife, lush native plants, and the serenity of natural settings – for the enjoyment of future generations.

Proper management of these properties will maximize the benefits that society derives from the investment in natural lands. Therefore, the main goal of this plan is to provide guidance to achieve superior management for the MDC-EEL properties. In a way, the challenge is the efficient and logical application of the fundamental principles of conservation biology to meet the legal mandate of the MDC-EEL Program, while meeting the management requirements of the Board of County Commissioners as well as those from several public and private organizations that have contributed to the program.

To respond to these needs, the plan is structured in three parts. The parts complement each other by progressing from the general aspects that are applicable to the entire program to those relevant for one major habitat type and finally for those that are needed to successfully manage each individual site. In this way, the plan is more efficient and avoids repetition of general policies for each individual site while maintaining policy applicability and need for enforcement by proper referencing.

In this context, Part I provides the overall background and framework for the program's structure and function. It briefly describes the setting of Miami-Dade County and the nature and mandate of the MDC-EEL Program. Part I also provides an overview of the resources and ecological value of the MDC-EEL properties, describes the overall management authority required for proper accountability, identifies major threats and opportunities at the program level, and proposes general policies that regulate use and public access in a manner that is consistent with the primary goal of preservation. Finally, Part I defines the needs for properly monitoring the success of the program and proposes general practices for record keeping and plan updating.

Part II follows a similar approach while focusing in terms of threats, opportunities, policies and management practices and tools that are particularly applicable to each of the major habitats the MDC-EEL Program is trying to preserve within the county. Therefore, there are several chapters within Part II, one for each habitat type. However, the broader policies that are applicable to the entire program are included by reference when necessary to illustrate their application to the more restricted set of conditions that are present within each habitat type.

Finally, Part III contains a chapter for each MDC-EEL property. These are site specific plans where the policy component is not relevant but the goals, objectives, and activities within each Part III chapter reflect the implementation of the applicable policies from the two previous parts, for each of the MDC-EEL properties.

## 2.0 Overview of Miami-Dade County

As the rest of South Florida, Miami-Dade County is flat and a significant portion of its territory is within the youngest landscapes in North America, being above sea level only for a few thousand years. However, the almost imperceptible changes in topography exert a remarkable effect on the biota. The subtropical climate with a mild dry and cool season and a hot rainy seasons combines with the slight elevations changes to provide a broad range of soil moisture conditions, which is responsible for a rather diverse set of natural habitats.

The extent of human presence and its impact on the landscape of Miami-Dade County has changed dramatically during last century. Human population grew more than 400 times during the 20$^{th}$ century from an estimated 4,995 people in the year 1900 to 2.25 million in the year 2000. This increase in human population, and its associated agricultural and urban support systems, has significantly altered the natural conditions and modified the extent of natural habitat presence and vegetation cover in the county. Some ecosystems that were once common and abundant are now almost inexistent and several indigenous plant and animal species are rare or endangered.

### 2.1 Climate

Miami-Dade County has a sub tropical climate that can be divided into two distinct seasons: a mild dry season and a hot rainy season. The dry season is characterized by mild temperatures, relatively low humidity levels and very little rain. This season usually ranges from late October to mid May. Occasional cold fronts arriving from Canada are the primary weather maker during the dry season, disrupting a mild easterly flow off the Atlantic Ocean. High temperatures are generally around 80 degrees, and low temperatures can vary from the low 30's inland to the low 60's near the coast. Drops below 32 degrees occur some years. Humidity levels are generally low with dew points below 60 degrees. The start of the wet season is different every year, but it generally starts in mid May and lasts through October. The average temperatures during the wet season range from the upper 80s at the coast to the mid 90s inland. Precipitation amounts can be copious with monthly totals ranging from 5 to 9 inches, and an annual average of 58 inches. The distinct mark of the wet season is consecutive days of high humidity with dew points at or well above 60 degrees.

June 1 through November 30 marks the annual hurricane season. During this period Miami-Dade County may be crossed by one or more tropical cyclones, including tropical depressions, tropical

storms, and hurricanes. The main impact of these storms is the strong winds. Hurricanes can have winds in excess of 74 miles per hour. These storms can also bring large amounts of rainfall in very short time periods and cause regional flooding.

### 2.2 Geology/Soils

The geology and soils of Miami-Dade County are relatively simple and derived from recent geologic history. The surface rocks, exposed in many locations, are nearly all of the Miami Limestone, a formation laid down in the most recent of three main interglacial periods of the Pleistocene Epoch when sea level was about 25 feet above today's level. That last interglacial period gradually ended about 100,000 years before present. The parent material deposited during the interglacial time was grains of calcium carbonate, formed by two shallow-marine processes. Along the eastern edge of the county's mainland where accumulations were thicker, the material was of small (but visible) egg-shaped grains of calcium carbonate called "ooids." These oolitic deposits thinned westward, away from the deeper waters of the Atlantic, where they intergraded with fine-grained (microscopic) calcium carbonate particles deposited from marine algae and the shells of tiny animals called bryozoans in that calmer shallow marine interglacial environment away from more turbulent coastal waters.

The more recent glacial time with the glacial maximum only about 20,000 years ago, caused much lower sea level that exposed the sediments. The oolites were initially sand-like and subject to wind redistribution and dune formation. Percolation of rainwater gradually solidified the grains by recrystallization into the soft rock we now recognize as the Miami Limestone.

Modern soils of Miami-Dade County resulted from various deposits upon the Miami Limestone base. In the northern county, beach sands – originally from the Appalachian Mountains and transported by waves and wind along Florida's coast – covered the Miami Limestone. These sands are deepest at the border with Broward County and thin southward and westward until they are only found in pockets, including solution holes in the bedrock, from downtown Miami and southward.

Throughout the southern and western portions of Miami-Dade County, the Miami Limestone became covered by recent deposits that began only about 5,000 years ago, when rising sea level (that slowed drainage) and increased rainfall formed the Everglades. Everglades flooding of low lying southern and western portions of the county caused the formation of two soil types: peat (or muck) and marl. Where flooding was prolonged, at least nine months of the year and with water saturation of the soil usually all year, peat soils formed over the oolite. Peat is primarily the remains of wetland vegetation, mostly roots, preserved from decay by water saturation that inhibits oxygen from entering the ground. Drainage, however, degraded the peat by biological decay and fire once they became exposed to atmospheric drying and available oxygen. For this reason, peat soil has only a short life for most agriculture. Wetland peat can only be retained by keeping it saturated with water.

Where flooding was shorter, typically four to six months annually, marl soils formed. Marl results from algae that grow during seasonal flooding when they precipitate calcium carbonate as they extract carbon dioxide from the water. Upon drying, the algae leave behind a thin deposit of fine calcium carbonate particles. With many centuries of accumulation, a clay-like, grey to light

brown soil forms – marl. Marl soils became prevalent along the low edges of the coastal ridge, especially in the low, coastal southern part of the county. Marls also formed in low flow ways over the coastal ridge that carried seasonal high water from the Everglades toward Biscayne Bay. These areas were called “finger glades” or “transverse glades” and originated as tidal channels when the coastal oolitic material was being formed as a shallow marine environment. The low elevation marl soil has served effectively for certain agricultural uses, initially for crops in the finger glades, but more recently with widespread drainage for nurseries.

Higher areas of the oolitic ridge typically have scant soils, with sands in depressions and exposed rock common (making it possible to drive on lawns without causing ruts). However, where tropical hardwood hammocks developed, a veneer of woody peat accumulated. Unlike Everglades peat, woody peat is less vulnerable to degradation in air because of natural preservatives characteristically produced by trees and shrubs. A localized soil curiosity is the “Redland” area north of Homestead. The scant soils there have been augmented by dust of African origin, transported by wind across the Atlantic. Although the dust phenomenon is widespread across the Caribbean region, local soil conditions in the Redlands retained the reddish color, giving the name.

Not to neglect the islands on the outside of Biscayne Bay, the soils of Miami Beach and Key Biscayne are of marine wave deposits, primarily carbonate sands mixed with northern beach sand and shells. Southward, the islands from Soldier Key, the Ragged Keys, and Elliott Key are of coral reef origin. Rocks there are properly called coral rock and are of the same age and origin as the elongated backbone islands of the upper and middle Florida Keys.

### 2.3 Undisturbed Natural Habitats

Prior to non-indigenous settlement the ecosystems of Miami-Dade County consisted of an unbroken range of habitats stretching from the southern reaches of the Everglades marshes to the mangrove tidal swamps lining the coastlines. In between was a diversity of upland and wetland habitats with a mixture of tropical and temperate features. Variation in the landscape was shaped by geology, hydrology, climate, salinity, and wildfires. The most distinctive natural features of Miami-Dade County included the Everglades, the southern tip of the sandy Atlantic coastal ridge continuing southward as the Miami-Rock Ridge, freshwater marshes south and east of the Miami Rock Ridge, and the coastal tidal marsh and swamp communities. Figure 1 illustrates the historical habitats that existed in Miami-Dade County.

*The Everglades* – In the western portion of Miami-Dade was the southern end of the Everglades, represented by broad wetland swales and sloughs dominated by sawgrass. Interspersed within these wetlands were small upland tree islands. These tree islands were typically fringed with wetland hardwoods such as swamp bay, wax myrtle, and cocoplum, and the higher elevation interiors with tropical tree species including poisonwood, gumbo limbo, strangler fig, and paradise tree.

*Atlantic Coastal Ridge* – The Atlantic Coastal Ridge is a narrow sandy ridge which runs parallel to the eastern coast of Florida from northern Florida into Miami-Dade County. The ridge is composed of sands and throughout its length is dominated by a variety of pine dominated ecosystems. Northern Miami-Dade County is the southern extent of the sandy portion of this

ridge, which extending south to approximately Northeast 90th Street. The historical vegetation structure and composition is poorly known because of a lack of historical data and almost complete development of the area. Areas of well drained sand were covered by scrubby flatwoods with a canopy of south Florida slash pine (*Pinus elliottii* var. *densa*).

*Miami Rock Ridge* – The Miami Rock Ridge overlaps with the Atlantic Coastal Ridge in northern Miami-Dade County. This ridge, composed of oolitic limestone, extended in an arc from north of what is now downtown Miami south and west ending in the Mahogany Hammock area of what is now Everglades National Park. In the northern extent it was very close to Biscayne Bay, meeting the Bay just south of the Miami River and at Coconut Grove, and again at what is now the Deering Estate at Cutler. To the west of the ridge were the Everglades. It was dissected by narrow marl prairies into distinct islands. These marl prairies, known as the "transverse glades" or "finger glades," were short hydroperiod wetlands which drained runoff from the Everglades to Biscayne Bay.

The Miami Rock Ridge was dominated by upland forests. The dominant habitat on the ridge was pine rockland, a savanna-like community with a monospecific canopy of South Florida slash pine, a shrub layer of palms and sparse hardwoods, and a diverse ground cover of herbs and graminoids. Interspersed within the pine rockland and its edges were rockland hammocks, closed canopy forests dominated by a mixture of tropical and temperate tree species. Solution holes in the eroded limestone in these rockland hammocks contained exposed groundwater for much of the year and provided a unique microhabitat for different plant and animal species.

*Marshes of Eastern and Southern Miami-Dade County* - To the south and the east of the Miami Rock Ridge were freshwater marshes. These marshes were flooded by rainfall in the wet season, and also received some runoff from the Everglades through prairies cutting through the ridge at times of high water. These marshes were generally similar to other wetlands of the Everglades with a composition of varying water depth, soils, and proximity to the coast. These marshes transitioned into tidal marshes or tidal swamps close to the coast.

*Coastal Wetlands* – Almost the entire eastern coastline of Miami-Dade County was fringed by tidal swamps. Tidal swamps are forested wetlands dominated by a combination of mainly three tree species, red mangrove (*Rhizophora mangle*), black mangrove (*Avicennia germinans*), and white mangrove (*Laguncularia racemosa*). Buttonwood (*Conocarpus erectus*) was also a frequent associate. Tidal swamps right on the coast were permanently inundated, while those that are more inland may have only flood with seasonal high tides.

Inland of tidal swamps was a band of tidal marsh that was narrow to absent along the north, but very broad along the southern part of the county. These tidal marshes were dominated by grasses, rushes, and other herbaceous plant species, particularly gulf cordgrass (*Spartina spartinae*), needle rush (*Juncus roemerianus*), saltgrass (*Distichlis spicata*), and seashore dropseed (*Sporobolus* virginicus). These marshes were periodically flooded by tidal waters, the frequency being determined by proximity to the coast, elevation, and tidal range. Frequency of flooding ranged from daily to semi-annually. Freshwater influxes were also present from inland marshes, especially during the summer wet season.

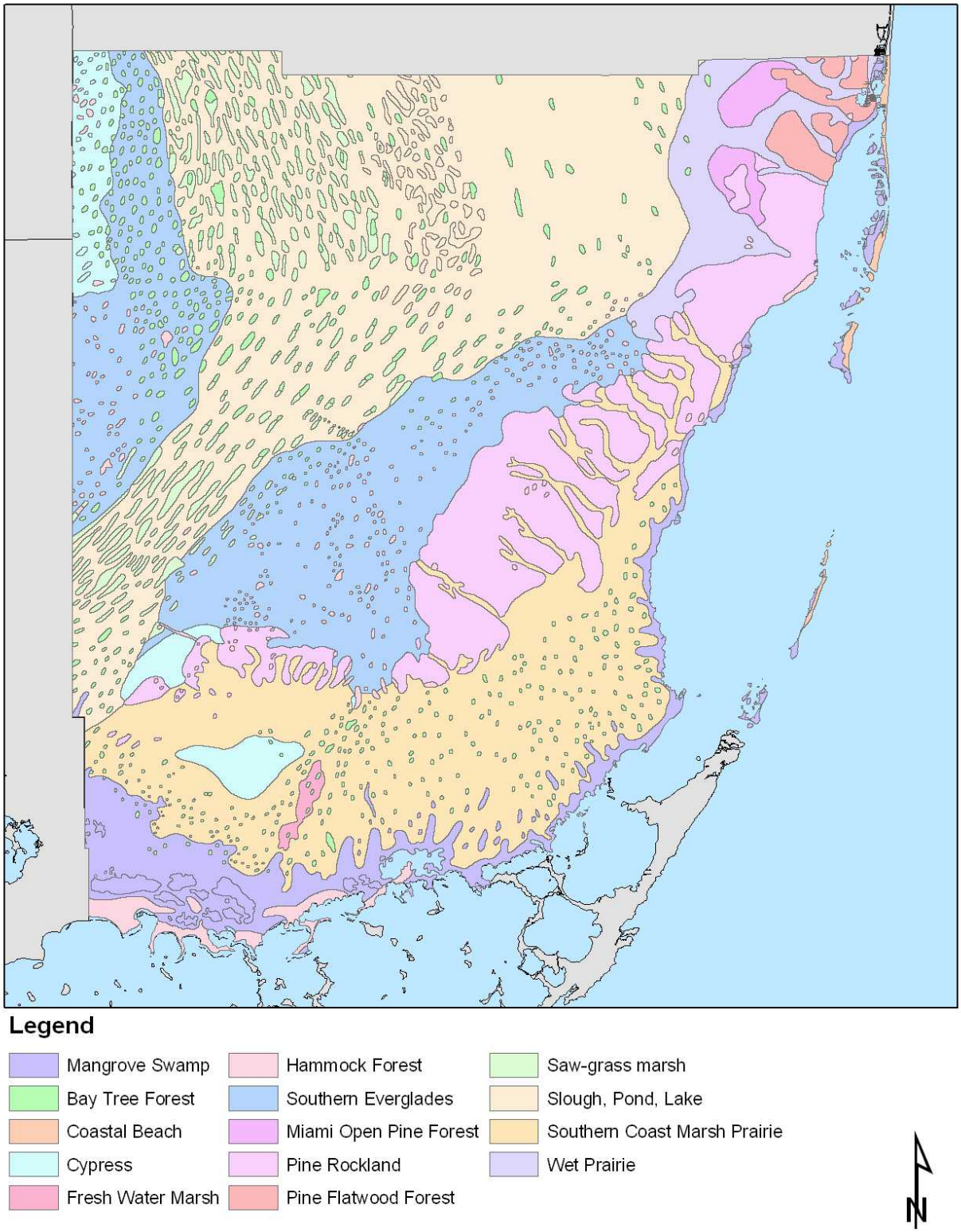


**Figure 1: Historical Undisturbed Habitats of Miami-Dade County**
Source: Davis and Ogden 1997

*Islands* – Across Biscayne Bay in northern Miami-Dade County were several sandy barrier islands. The southernmost was Key Biscayne, and to the north were Virginia Key and Miami-Beach. These barrier islands had long, narrow beaches on the ocean side and mangrove tidal swamps on the Bay side. In the centers of the islands were uplands, including coastal strand maritime hammocks, and on Virginia Key even some pine forest. Farther south in the county, the eastern side of Biscayne Bay was delimited by several narrow keys now found in Biscayne National Park. The largest of these was Elliott Key.

## 2.4 Colonization Process

Despite the arrival of Christopher Columbus in the new world in 1492 and Ponce de Leon's visit to Biscayne Bay in 1513 (Muir 1953), the settlement of non-indigenous people in Miami-Dade County took place much later than other parts of the Americas. The permanent settlement of Miami-Dade County started with the construction of Fort Dallas at the mouth of the Miami River in 1836. (Muir 1953). The establishment of this fort and ongoing Indian suppression through the 19th century drew more settlers. Initial changes were small; settlers at the mouth of the Miami River began hand-clearing Brickell Hammock, a large rockland hammock just south of the mouth of the river. Additional clearing was done to hammocks north of the river and to the west along the banks of the river. These clearing projects were at a small scale, sufficient for the small number of settlers to build homes, farm vegetables, and raise livestock (Muir 1953).

As the population of early Miami-Dade County grew it also spread. The extension of the Florida East Coast Railway, which reached Miami in 1896, brought more people. By the early 1900s most short-hydroperiod wetlands, especially the "finger glades" running across the Miami Rock Ridge, were being farmed in the dry season. Logging of pine trees occurred throughout the county in the 1930s and 1940s (USFWS 2000). By the start of World War II, settlements, logging camps, roads, and trails were scattered across the county. After World War II, Miami-Dade County experienced a rapid population increase that continues through the present (Muir 1953). In 1954 the invention of the rock plow allowed large areas of pine rockland and rockland hammocks to be easily prepared for farming – a task that was previously difficult to impossible because of the limestone substrate (USFWS 2000).

The settlement of people in a county that was predominantly wetlands necessitated extensive drainage efforts. Early settlers initiated small scale drainage projects. It was not until 1907 when the Everglades Drainage District was established that a comprehensive attempt to drain the Everglades and associated wetlands was initiated. Between 1907 and 1929 the District created 440 miles of canals throughout south Florida. In Miami-Dade County canals were built to drain the Everglades, marl prairies that crossed the Miami-Rock Ridge, and coastal wetlands (Lodge 2005, David and Ogden 1997).

### *2.4.1 Effects on Natural Ecosystems*

Drainage and subsequent land clearing have left little of Miami-Dade County's original landscape. Only 1.8% of the original pine rockland forest of Miami-Dade County outside of Everglades National Park remains (Bradley, unpublished data). Other ecosystems have fared poorly as well – the sandy pinelands on the Atlantic Coastal Ridge are almost completely gone,

represented at only two small MDC-EEL owned sites near the Broward County line. The barrier island of Miami-Beach has been almost completely developed and has almost no original native vegetation. The other islands, Virginia Key and Key Biscayne, have fared somewhat better, and are in part protected by state, county, and city parks, but even in those some areas were altered significantly by past farming or dumping of dredge spoil. All wetland areas in the county have suffered from drainage. Marl prairie habitat outside of Everglades National Park is represented by only a few scattered drained fragments on county property. Coastal wetlands have received better protection than other habitats, and even though some were cleared, farmed, or drained, much of the coastline is still lined with tidal swamp.

### *2.4.2 Population Growth and Changes in Land-Use/Land-Cover*

Land-use and land-cover change in Miami-Dade County parallels 20th century anthropogenic change observed on a global scale. Land-use and land-cover in the county has successively transitioned from wetlands and upland forests to drained and deforested cultivated agricultural lands and eventually to urbanized development. This agricultural and urban growth in Miami-Dade, and all of southeastern Florida, has gradually diminished the land-cover consisting of natural areas to almost non-existent. "Growth has been extraordinarily rapid … in 1900, Miami and Coconut Grove had populations of 1,681 and 850 people, respectively" (Renken et al. 2005). Today, Miami-Dade County encompasses a total area of 2,431 square miles (6,297 square kilometers) consisting of 80.04% land and 19.96% water, and is home to more than 2.3 million people (Miami-Dade 2006). Table 1 shows Miami-Dade County population growth throughout the past century. Figure 2 illustrates the land-use and land-cover change in Miami-Dade County throughout the past century.

"In the early part of the 20th century, southern Florida was a largely pristine environment of marsh wetlands, sawgrass plains, swamp forests, and wet prairies. Drainage canals were under construction, but the Everglades had not yet been drained. The Florida East Coast Railroad was completed as far south as Miami. The transfer of Federal land to the State initiated the 'land boom' era from 1903 to 1926, signaled by the construction and completion of the primary drainage canals" (Renken *et al*. 2005). Changes in land use and population density also occurred in response to "post-World War II development and redevelopment and large-scale immigration" (Renken *et al.* 2005). "Urban and agricultural development activities were interrupted considerably by the 1926 and 1928 hurricanes, which devastated Miami" (Renken *et al*. 2005). Development in the county nearly stalled during the 1930s during the Great Depression, but was followed by a period of recovery in the 1940s with an influx of military personnel who inhabited the area during World War II. During the 1950s and 1960s, Miami developed into a modern city. During that time, growth was no longer limited to just the city of Miami, but was sprawling out into the surrounding areas. Outlying towns expanded and new municipalities were established. From 1940 to 1960, the Miami population increased from approximately 172,000 to more than 290,000 people. An economic recession during the mid-1970s curtailed the rate of urban development temporarily, but development resumed with economic recovery in the late 1970s and continued through the 1980s (Renken *et al.* 2005). "As the availability of coastal property and other land diminished, the construction of condominium high rises helped to attract retirees for year-round housing. Urban areas continued to encroach upon and replace agricultural areas.

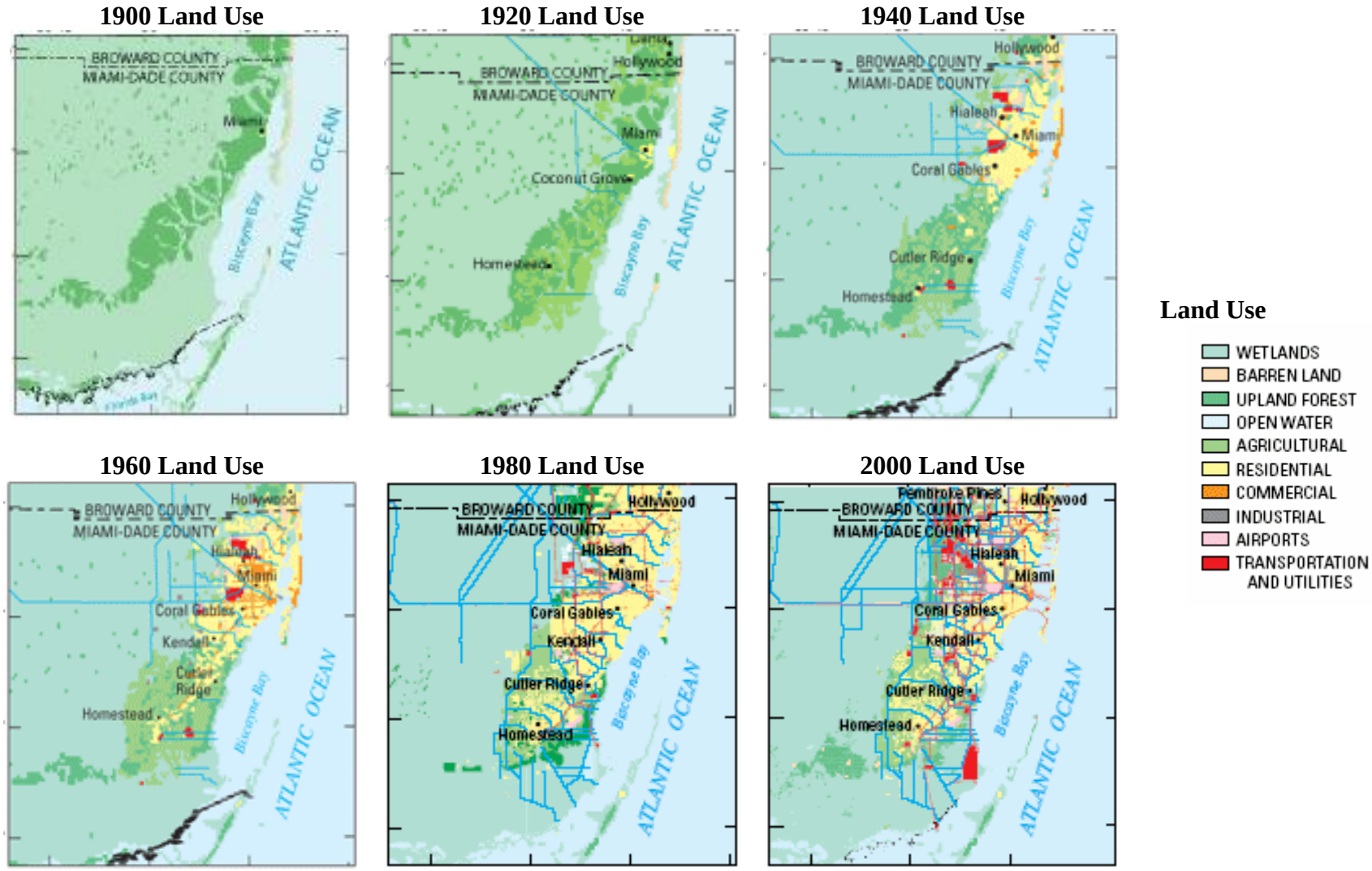


**Figure 2: Land-Use/Land-Cover Change and Population from 1900 to 2000 in Miami-Dade County, Florida**
Source: Figures cropped from Renken *et al.* 2005.

The 1980s marked the large-scale influx of immigrants from Latin and South America, which continued unabated into the 21st century. By the close of the 20th century, approximately 65 percent of the historic Everglades area was permanently lost to agricultural and urban development" (Renken *et al.* 2005).

| Year | Population |
|---|---|
| 1900 | 4,955 |
| 1910 | 11,933 |
| 1920 | 42,753 |
| 1930 | 142,955 |
| 1940 | 267,739 |
| 1950 | 495,084 |
| 1960 | 935,047 |
| 1970 | 1,267,792 |
| 1980 | 1,625,781 |
| 1990 | 1,937,094 |
| 2000 | 2,253,362[1] |

Source: Forstall 2000

**Table 1: Miami-Dade County Population Growth throughout the 20th Century**

## 3.0 Overview of MDC-EEL Program

The mission of the Miami-Dade County Environmentally Endangered Lands (MDC-EEL) Program is to acquire, preserve, enhance, restore, conserve and maintain environmentally endangered lands for the benefit of present and future generations. The primary management objective is to maintain and preserve the natural resource values of the lands by employing management techniques that are most appropriate for each native community.

### 3.1 Purpose and History

The historic loss, fragmentation, and degradation of native wetland and upland forest communities in Miami-Dade County are well documented, and remaining native wetland and upland forest communities are collectively endangered. In May, 1990, Miami-Dade County was authorized to levy an ad valorem tax (for a period not to exceed two years) for acquisition, preservation, enhancement, restoration, conservation, and maintenance of environmentally endangered lands for the benefit of current and future generations. The MDC-EEL Program was established by the Miami-Dade County Board of Commissioners to realize this goal.

[1] The 2000 census data was not obtained from Forstall 2000, but from the United States Census Bureau at < http://www.census.gov>.

The purpose of the MDC-EEL Program is:

- To acquire environmentally endangered lands that contain natural forest or wetland communities, native plant communities, imperiled biota, endemic species, endangered species habitat, a diversity of species, or outstanding geologic or other natural features
- To acquire environmentally endangered lands that function as an integral and sustaining component of an existing natural system
- To protect environmentally endangered lands that are publicly owned by acquiring inholdings or adjacent properties that, if not acquired, would threaten the environmental integrity of the existing resource, or that, if acquired, would enhance the environmental integrity of the resource
- To implement the objectives and policies of the Comprehensive Development Master Plan for Metropolitan Miami-Dade County that may have been promulgated to preserve and protect environmental protection areas designated in the Plan and other natural forest resources, wetlands, and endangered species habitat
- To identify Miami-Dade County's best and most endangered environmental lands for acquisition and management by evaluating the biological characteristics and viability of the resource, the vulnerability of the resource to maintain its natural attributes
- To manage environmentally endangered lands with the primary objective of maintaining and preserving their natural resource values by employing management techniques that are most appropriate for each native community so that Miami-Dade County's natural heritage may be preserved for current and future generations
- To use the acquired sites, where feasible within financial restraints and with minimal risk to the environmental integrity of the site, to educate Miami-Dade County's school aged population and the general public about the uniqueness and importance of Miami-Dade County's subtropical ecosystems and natural communities
- To cooperate actively with other acquisition conservation and resource management programs, including, but not limited to, such programs as the State of Florida Conservation and Recreation Lands Program, the Land Acquisition Trust Fund, and Save our Rivers Program, where the purposes of such programs are consistent with the purposes of the MDC-EEL Program as stated above (MDC 2006)

### 3.2 Land Acquisitions

The Environmentally Endangered Lands (MDC-EEL) Program addresses Miami-Dade County voter concerns about the continuing loss of pinelands and other natural areas. In 1990, voters approved a two-year property tax to fund the acquisition, protection, and maintenance of environmentally endangered lands. The MDC-EEL Program identifies and secures these lands for preservation. MDC-EEL successfully leverages its local land acquisition funds by working closely with other acquisition programs such as Florida Forever and Florida Communities Trust.

The Florida Forever program is Florida's plan for conservation of unique natural resources. This $300 million/year program replaces the Preservation 2000 Program (P-2000), which was responsible for the public acquisition and protection of more than 1.75 million acres of land in Florida. The Florida Forever/Board of Trustees program, the largest program funded by Florida Forever, receives approximately $100 million/year for state-wide acquisitions. This is the

successor to the Conservation and Recreation Lands, or CARL, program. Title to lands bought by the Florida Forever/Board of Trustees program, like those purchased through CARL, is held by the Board of Trustees. This includes those lands for which a local government provides matching funds. Often these lands are leased to the local government for management.

The Florida Communities Trust (FCT) is a land acquisition grant program financed by Florida Forever that provides funding to local governments and eligible non-profit environmental organizations for acquisition of community-based parks, open space and greenways that further outdoor recreation and natural resource protection needs identified in local government comprehensive plans. Local governments hold title to land acquired with FCT funds. The Florida Communities Trust receives approximately $66 million/year; each local government can receive up to $6.6 million per year.

The MDC-EEL Program, together with its partners, has acquired more than 21,000 acres of environmentally endangered lands since 1990. The purchase and conservation of these lands ensure that they are shielded from development and will continue to thrive as natural habitats.

As of 2006, the MDC-EEL Program has purchased the following acres of habitats:

- 1,531 acres of rockridge pineland
- 661 acres of tropical hardwood hammock
- 15,935 acres of freshwater wetlands
- 3,059 acres of coastal wetlands
- 40 acres of scrubby flatwoods

Annually, the MDC-EEL Program considers proposed sites to be acquired with public funds. Proposals by government agencies are reviewed semiannually. Each site is inspected by county staff and citizen volunteers who are members of the Land Acquisition Selection Committee (LASC). Following a public hearing, LASC recommends sites for purchase to the Miami-Dade Board of County Commissioners.

Once approved for acquisition, a purchase is negotiated with the owner. The MDC-EEL Program works only with willing sellers to purchase land. Opportunities exist for matching grants, joint acquisition agreements, and donations for MDC-EEL acquisitions. The State of Florida's Preservation 2000 Program and Florida Forever have been significant sources of matching funds.

## 4.0 Biological and Cultural Resources of the MDC-EEL Preserve Complex

There are numerous unique biological and cultural resources found within every MDC-EEL site. These resources consist of six different habitat types, numerous Endangered, Threatened, or Critically Imperiled plant and animal species, and many cultural and historical resources. These resources are discussed in a broad sense in the following sections, while specifically unique resources and species for each MDC-EEL site will be discussed in Parts II and III of this document.

## 4.1 Habitats

Six different habitat types occur on the MDC-EEL sites: marl prairie, pine rockland, rockland hammock, scrubby flatwoods, tidal marsh, and tidal swamp. The locations of these habitats within MDC-EEL sites are listed in Table 2. Descriptions of each habitat type from the Florida Natural Areas Inventory (FNAI) are provided following Table 2 (FNAI & FDNR 1990). A brief description of the current conservation status of each habitat on MDC-EEL sites is provided following the FNAI description. Detailed descriptions of these habitats are provided in Part II of this management plan.

### *4.1.1 Marl Prairie*

"Marl Prairies are sparsely vegetated seasonal marshes on flatlands along the interface between deeper wetlands and coastal or upland communities where limestone is near the surface. The freshwater marl substrate is derived from periphyton, masses of algae and other minute organisms, that grow floating or loosely attached to the vegetation and exposed limestone. These organisms precipitate calcium carbonate when surface water is present. Dominant plants include muhly grass, sawgrass, spikerush, bluestem, beakrush, shoregrass, and pond cypress. Although generally a system of sedges, grasses, and grass-like plants of varying heights and densities, widely scattered, stunted cypress or mangrove trees are often present. These cypress trees, sometimes called dwarf, toy or hat rack cypress, have huge buttresses, gnarled bonsai-like crowns, and may be hundreds of years old. Other typical plants include fragrant waterlily, pickerelweed, wiregrass, asters, love grass, wild pine, cutgrass, panicums, black sedge, sand cordgrass, swamp lily, stargrass, musky mint, milkwort, white-top sedge, cowhorn orchid, fire flag, dogfennel, and many others" (FNAI & FDNR 1990).

Marl prairie occurs on five properties in the MDC-EEL Program (Table 2). Drops in the water table throughout Miami-Dade County have altered the hydrology of marl prairies on all of these sites. The atypical marl prairie at Tree Island Park (secondarily derived by the loss of most overlying peat soil) may be the only MDC-EEL site where annual flooding currently occurs. On MDC-EEL sites the habitat generally fits the treeless forms of marl prairie as defined by FNAI.

### *4.1.2 Pine Rockland*

"Pine Rockland is characterized as an open canopy forest of slash pines with a patchy understory of tropical and temperate shrubs and palms and a variable ground cover of grasses and herbs. Scattered outcrops of weathered oolitic limestone, known locally as pinnacle rock, are also common. Typical plants include south Florida slash pine, saw palmetto, cabbage palm, silver palm, gallberry, velvet seed, blolly, locustberry, myrsine, tetrazygia, varnish leaf, marlberry, indigo berry, poisonwood, bustic, live oak, stoppers, shining sumac, satin leaf, wild tamarind, rubber vine, snowberry, broomsedge, wiregrass, muhly grass, rattlebox, partridge pea, coontie, and pinefern. Typical animals include southeastern five-lined skink, ringneck snake, pygmy rattlesnake, red-shouldered hawk, Carolina wren, eastern bluebird, pine warbler, opossum, marsh rabbit, cotton rat, cotton mouse, raccoon, and bobcat" (FNAI & FDNR 1990).

Pine rockland occurs on 25 properties in the MDC-EEL Program (Table 2). On MDC-EEL sites the habitat generally fits the definition by FNAI.

| MDC-EEL Site | Marl Prairie | Pine Rockland | Rockland Hammock | Scrubby Flatwoods | Tidal Marsh | Tidal Swamp |
|---|---|---|---|---|---|---|
| Big George Hammock | | | X | | | |
| Black Creek Forest | | X | X | | | |
| Boystown Pineland | X | X | | | | |
| Castellow & Ross Hammocks | | X | X | | | |
| County Line Scrub | | | | X | | |
| Cutler Wetlands | | | | | | X |
| Deering Estate South Addition | | X | X | | | X |
| Deering Estate North Addition | | | | | X | X |
| Dolphin Center Addition | | | | X | | |
| Eachus Pineland | | X | | | | |
| Florida City Pineland | | X | | | | |
| Fuch's Hammock Addition | | X | X | | | |
| Goulds Pineland | | X | | | | |
| Harden Hammock | | | X | | | |
| Hattie Bauer Hammock | | | X | | | |
| Holiday Hammock | | | X | | | |
| Ingram Pineland | | X | | | | |
| Little George Hammock | | | X | | | |
| Loveland Hammock | | | X | | | |
| Lucille Hammock | X | X | | | | |
| Ludlam Pineland | | X | | | | |
| Martinez Pineland | X | X | | | | |
| Meissner Hammock | | | X | | | |
| Mavy Wells #23 | | X | X | | | |
| Navy Wells #39 | | X | | | | |
| Nixon Smiley Pineland and Addition | X | X | | | | |
| Oleta River Corridor Tract C | | | | | X | X |
| Owaissa Bauer Addition #1 | | X | | | | |
| Palm Drive Pineland | | X | | | | |
| Quail Roost Pineland | | X | | | | |
| Rock Pit #39 | | X | | | | |
| Rockdale Pineland | | X | | | | |
| Silver Palm Groves Pineland and Rock Pit #46 | | X | X | | | |
| Silver Palm Hammock | | | X | | | |
| Sunny Palms Pineland | | X | | | | |
| Tamiami Pineland Complex Addition | X | X | | | | |
| Trinity Pineland | | X | | | | |
| West Biscayne Pineland | | X | | | | |

**Table 2: Habitat Types on MDC-EEL Sites**

### *4.1.3 Rockland Hammock*

"Rockland Hammock is characterized as a hardwood forest on upland sites in regions where limestone is very near the surface and is often exposed. These forests have high species diversity and are often dominated by trees 60 feet or taller. Typical plants include live oak, gumbo-limbo, wild tamarind, stoppers, pigeon plum, false mastic, poisonwood, mahogany, inkwood, marlberry, lancewood, strangler fig, wild coffee, bustic, black ironwood, paradise tree, satin leaf, redbay, cabbage palm, laurel oak, tallowwood, prickly ash, hackberry, guiana-plum, shortleaf fig, cat's claw, soapberry, sea grape, coffee colubrina, soldierwood, geiger tree, wild pine, Spanish moss, ferns, coonties, poison ivy, greenbrier, and fox grape. Typical animals include tree snail, Schaus swallowtail, white-crowned pigeon, woodrat, and cottonmouse" (FNAI & FDNR 1990).

Rockland hammock occurs on 14 properties in the MDC-EEL Program (Table 2). On MDC-EEL sites the habitat generally fits the definition by FNAI.

### *4.1.4 Scrubby Flatwoods*

"Scrubby Flatwoods are characterized as an open canopy forest of widely scattered pine trees with a sparse shrubby understory and numerous areas of barren white sand. The vegetation is a combination of Scrub and Mesic Flatwoods species; Scrubby Flatwoods often occupy broad transitions or ecotones between these communities. Typical plants include longleaf pine, slash pine, sand live oak, Chapman's oak, myrtle oak, scrub oak, saw palmetto, staggerbush, wiregrass, dwarf blueberry, gopher apple, rusty lyonia, tarflower, golden-aster, lichens, silkbay, garberia, huckleberry, goldenrod, runner oak, pinweeds, and frostweed" (FNAI & FDNR 1990).

Scrubby flatwoods occur on two properties in the MDC-EEL Program (Table 2) – County Line Scrub and the Dolphin Center Addition. On MDC-EEL sites the habitat generally fits the definition by FNAI, but have few areas of open sand and no pine canopy.

### *4.1.5 Tidal Marshes*

"Marine and Estuarine Tidal Marshes are Floral Based Natural Communities generally characterized as expanses of grasses, rushes and sedges along coastlines of low wave-energy and river mouths. They are most abundant and most extensive in Florida north of the normal freeze line, being largely displaced by and interspersed among Tidal Swamps below this line. Black needlerush and smooth cordgrass are indicator species which usually form dense, uniform stands. The stands may be arranged in well-defined zones according to tide levels or may grade subtly over a broad area, with elevation as the primary determining factor. In the upper reaches of river mouths, where Estuarine Tidal Marsh begins to blend with Freshwater Tidal Swamp and Marsh, sawgrass may occur in dense stands. Sawgrass is the least salt tolerant of these Tidal Marsh species. Other typical plants include saltgrass, saltmeadow cordgrass (marsh hay), gulf cordgrass, soft rush and other rushes, salt myrtle, marsh elder, saltwort, sea oxeye, cattail, big cordgrass, bulrushes, seashore dropseed, seashore paspalum, shoregrass, glassworts, seablight, seaside heliotrope, saltmarsh boltonia, and marsh fleabane. Typical animals include marsh snail, periwinkle, mud snail, spiders, fiddler crabs, marsh crab, green crab, isopods, amphipods, diamondback terrapin, saltmarsh snake, wading birds, waterfowl, osprey, rails, marsh wrens, seaside sparrows, muskrat and raccoon" (FNAI & FDNR 1990).

Tidal marsh occurs on two properties in the MDC-EEL Program (Table 2). On MDC-EEL sites the habitat generally fits the definition by FNAI.

### *4.1.6 Tidal Swamps*

"Marine and Estuarine Tidal Swamps are Floral Based Natural Communities characterized as dense, low forests occurring along relatively flat, intertidal and supratidal shorelines of low wave energy along southern Florida. The dominant plants of Tidal Swamp Natural Communities are red mangrove, black mangrove, white mangrove and buttonwood. These four species occasionally occur in zones which are defined by varying water levels, with red mangrove occupying the lowest zone, black mangrove the intermediate zone, and white mangrove and buttonwood the highest zone. Other vascular plants associated with Tidal Swamps include salt grass, black needlerush, spike rush, glasswort, Gulf cordgrass, sea purslane, saltwort and sea oxeye. Typical animals of the Tidal Swamp include mangrove water snake, brown pelican, white ibis, osprey, bald eagle, and a variety of shorebirds, herons, egrets, and raccoon. Also included are sponges, oysters, marine worms, barnacles, mangrove tree crabs, fiddler crabs, mosquitoes, and numerous other invertebrates. Fishes are likewise diverse in this community. Those most frequently occurring include black-tipped shark, lemon shark, nurse shark, bonnet-head shark, rays, tarpon, ladyfish, bonefish, menhaden, sardines, lookdown, permit, snapper, sheepshead, porgies, pinfish, and mullet" (FNAI & FDNR 1990).

Tidal swamp occurs on four properties in the MDC-EEL Program (Table 2). On MDC-EEL sites the habitat generally fits the definition by FNAI.

## 4.2 Species Biodiversity

With the almost complete elimination of upland ecosystems in urbanized Miami-Dade County, the preserves in the MDC-EEL Program are the last localities for many rare organisms in South Florida, including endemics, tropical species at the northern ends of their ranges, and temperate species at the southern ends of their ranges. This is especially true for plant species for which there are abundant data, but also to some extent for some vertebrates and invertebrates. The rare organisms for which critical habitat exists primarily in MDC-EEL sites in South Florida are discussed below.

### *4.2.1 Plant Species*

Miami-Dade County has (or had) 268 plant taxa (species, subspecies, and varieties) which are considered as Endangered, Threatened, or Critically Imperiled by one or more listing agencies and organizations. Many of these species occur or have occurred on MDC-EEL sites.

Agencies and organizations which list rare plant species are:

- U.S. Fish and Wildlife Service which lists species as Endangered or Threatened under the Endangered Species Act

- State of Florida, Division of Agriculture and Consumer Services, which lists species as Endangered, Threatened, or Commercially Exploited under Florida Regulated Plants Index
- Florida Natural Areas Inventory lists species as Critically Imperiled, Imperiled, Historical, or Extirpated in Florida
- The Institute for Regional Conservation lists species as Critically Imperiled, Historical, or Extirpated in a 10 county area of South Florida

Plant species of special note in MDC-EEL sites are:

Fragrant maidenhair fern (*Adiantum melanoleucum*) – This tropical epipetric fern is currently known in Florida only from the Harden Hammock MDC-EEL site, one hammock in Everglades National Park, and a privately owned hammock in the Redlands area of Miami-Dade County. Only very small populations exist in Everglades National Park and on private property. Harden Hammock contains the largest known population with over 100 plants.

Tall neottia (*Spiranthes elata*) – This rare tropical orchid has been found in Florida only in Miami-Dade and Hernando Counties. It is extirpated in Hernando County where it was collected in 1881. In Miami-Dade County it has been collected only twice, once in 1961 in a hammock near Cutler, and the last time in 1980 at the Big George Hammock MDC-EEL site. It has not been seen at the site since then, or anywhere else in Florida.

Crenulate leadplant (*Amorpha herbacea* var. *crenulata*) – This plant is a deciduous shrub to five feet in height with reddish purple branches. Flowers are white or lavender with one petal. Fruit is an erect, flattened pod approximately half an inch long. This variety is endemic to Miami-Dade County inhabiting pine rockland or marl prairie with slash pine, poisonwood, wax myrtle, and saw palmetto. Habitat has been lost to development. Six populations are known with five on managed areas.

Wedge sandmat (*Chamaesyce deltoidea*) – This plant is perennial herb with numerous wiry stems radiating from a taproot forming mats or tufts up to six inches in width. Plants may be erect or prostrate. This species generally occurs in open areas of exposed limestone in pine rocklands. Habitat has been lost to development, fire suppression, and occupation by invasive, non-native species. Twelve populations are protected in managed areas.

Small's milkpea (*Galactia smallii*) – This milkpea is a perennial leguminaceous herb with trailing stems up to six feet in length that occurs in pine rocklands in southern Miami-Dade County. Preferred habitat consists of slash pine with saw palmetto, poisonwood, and willow bustic. Habitat for this species has been severely reduced by development. Six populations are known on five managed areas.

Carter's flax (*Linum carteri*) – This plants is an annual herb approximately four to twenty-four inches in height with yellow-orange five-petaled flowers approximately a half inch in diameter that is endemic to Miami-Dade County. Habitat includes disturbed areas within and adjacent to pine rocklands. Habitat has been lost to development, fire suppression, and occupation by invasive, non-native species. Three populations occur in managed areas.

Small's milkwort (*Polygala smallii*) – This milkwort is a perennial herb with one to four unbranched stems to approximately four inches in height occurring on shallow sandy soils in pine rockland habitat in Miami-Dade County. Small yellow-green flowers are crowded in a head at the tops of stems. Habitat has been lost to development. Eleven populations of this species are known.

### *4.2.2 Animal Species*

Examples of coastal-aquatic and terrestrial species for which important habitat may exist at one or more Miami-Dade County EEL lands are discussed below. This list does not include all species, and is restricted to examples that are listed as threatened or endangered by the US Fish and Wildlife Service (USFWS) or Florida Fish and Wildlife Conservation Commission (FWCC), or as a species of special concern by the FWCC. It omits listed birds because of their transient use of MDC-EEL sites and omits many insects except butterflies because they are better known. Naming follows listings by Florida Natural Areas Inventory (FNAI), updated March 2006.

American crocodile (*Crocodylus acutus*) – Coastal MDC-EEL properties having or abutting canals or coastal wetlands, especially in the southern part of the county may have occasional to frequent visits by American crocodiles. Such occurrences demand a policy for management actions, including coordination with the USFWS and FWCC, because of legal protection requirements for its endangered listing by both agencies and the possibility of adverse interaction with visitors or employees.

Eastern indigo snake (*Drymarchon couperi*) – The eastern indigo snake formerly occurred throughout Miami-Dade County but is now extremely rare. This species ranges over several hundred acres of home range and is easily killed on roads and easily collected (illegally) by reptile enthusiasts. Specific management policy is needed, including coordination with wildlife agencies, for which it is listed as threatened by both the USFWS and the FWCC.

Rim rock crowned snake (*Tantilla oolitica*) – This extremely rare, ten-inch snake historically occurred on the rocky coastal ridge of Miami-Dade County. It is listed by the FWCC as threatened. Many of the MDC-EEL properties have proper habitat for this secretive, burrowing species.

Mangrove rivulus (*Rivulus marmoratus*) – This rare small fish occurs rarely in shallow coastal marshes and mangrove swamps. It is listed by the FWCC as a Species of Special Concern.

Miami blue (*Cyclargus thomasi bethunebakeri*) – This small south Florida endemic butterfly, listed as endangered by the FWCC, occurs in the limited locations in the Florida Keys and historically in coastal areas of the Florida mainland. There have been recent efforts to reintroduce it to the mainland, so that official guidelines on this species would be important for MDC-EEL properties.

Schaus' swallowtail (*Papilio aristodemus ponceanus*) – This large butterfly formerly occurred on the Miami-Dade County mainland but is now restricted to tropical hardwood hammocks on islands in Biscayne National Park and north Key Largo. There have been recent attempts to

reintroduce it to parks in Miami-Dade County, thus requiring that MDC-EEL have specific guidelines to address this species, listed as endangered by both the USFWS and the FWCC.

Atala butterfly (*Eumaeus atala*) – This rare, small butterfly has been reported from Dade County north into Martin County. In 1993, it was sighted in St. Lucie and Indian River counties. The increased presence of Atala butterflies can be attributed to the increased use of coonties in the landscape and a series of mild winters. At present, the Atala is not listed by federal or state authorities as an endangered species. The Atala is not on the Federal list because it was thought to be extinct in 1965 and Federal Listing was thus impossible. The U.S. Office of Endangered Species reviewed the Atala's status in 1975. Recommendations for state protection were proposed, but were not acted on. While loss of coontie plants in the wild and habitat destruction may make this insect vulnerable to extinction, no special permit is required at this time for either control or collecting purposes.

### 4.3 Cultural Resources

Cultural resources such as Indian mounds, solution holes, and/or historical structures have been found at various sites in Miami-Dade County. As such, hypothetically one or more of these resources may be present on MDC-EEL sites. Precautions should be made for the protection of actual or potential assets.

For example, the Deering Estate contains extensive archaeological records representing a "comprehensive record of human habitation in South Florida dating back approximately 10,000 years" (Deering Estate 2006). Resources include a "Tequesta Indian burial mound, the Cutler Fossil Site, five Deering Estate historic buildings, Charles Deering's boat turning basin, historic landscape, and a roadway" (Deering Estate 2006).

Furthermore, the Florida Master Site File shall be consulted for information on the specific properties addressed herein and these assets will be addressed in Part III of this management plan. The management of any archaeological and historic resources located on MDC-EEL properties is intended to comply with the provisions of Chapter 267, Florida Statues specifically Sections 267.061 2(a)and (b).

## 5.0 Management Authority

The MDC-EEL Program has acquired many of its properties with funding assistance from its partners, including the Conservation and Recreation Lands/Florida Forever Program and the Florida Communities Trust. Therefore, the management authority of MDC-EEL sites will consist of a cooperative partnership with these programs. Management of MDC-EEL sites will attempt to abide by all of rules and regulations set forth by each agency, while also complying with all state and local government regulations.

### 5.1 Miami-Dade County Environmentally Endangered Lands Program Lands

An overview of the Miami-Dade County Environmentally Endangered Lands (MDC-EEL) Program is presented in Section 3.0. Section 3.1 includes the purpose and history of the program, and Section 3.2 includes the applicable land acquisitions. Most lands acquired with MDC-EEL

funds are titled to "MIAMI-DADE COUNTY, a political subdivision of the State of Florida, by and through its Environmentally Endangered Lands (EEL) Program". A few properties acquired before 1995 state "Miami-Dade County" without the reference to MDC-EEL. The Board of County Commissioners of Metropolitan Miami-Dade County established the Environmentally Endangered Lands Program to implement the MDC-EEL program and to support its purposes to the fullest, including management of these lands (Ord. No. 04-214, §§ 1, 5, 12-2-04; MDC Code Sec. 24-50).

### 5.2 CARL/Florida Forever Lands

Some properties managed by MDC-EEL were acquired with MDC-EEL funds and funds from the Conservation and Recreation Lands or Florida Forever programs. In these cases, the Board of Trustees of the Internal Improvement Trust Fund (BOT) holds title to the lands. The Governor and Cabinet sit as the Board of Trustees and are responsible for state-owned lands. The BOT is authorized to lease State lands for the use and benefit of the people of the State of Florida. Each lease is for 50 years. Management authority for these properties is addressed in several documents. In addition to the leases, authority and direction is provided by Chapters 253 and 259, Florida Statutes (FS) (Appendix A, Chapters 253 and 259, Florida Statutes) (State of Florida 2006), and Chapters 18-2, Florida Administrative Code (FAC), which addresses "Management of Uplands Vested in the Board of Trustees" (Appendix B, Chapter 18-2, FAC) (FDEP 2006).

For those lands owned by the state and leased to MDC-EEL, this management plan will be submitted for review to the BOT through the Department of Environmental Protection, Division of State Lands (DSL). It is intended to comply with the BOT and MDC-EEL (Appendix A, Chapters 253 and 259, Florida Statutes); Chapters 253 and 259, FS (State of Florida 2006); and Chapters 18-2, FAC (FDEP 2006). The plan is intended to be consistent with the State Land Management Plan. The content of this plan is in accordance with the Acquisition and Restoration Council recommendations for management plans and the guidelines provided by the staff of DSL.

Lands acquired in partnership with CARL/Florida Forever are in the Dade County Archipelago project. These lands are designated for use as botanical sites with passive recreation use. They are to be managed under the single-use concept and, as such, management activities should be directed toward the preservation of resources. Long-range plans shall generally be directed toward the restoration of disturbed areas and the perpetuation and maintenance of natural communities. Management activities will also stress the protection of threatened and endangered species (2006 Florida Forever Five-Year Plan).

These lands are not within an Area of Critical State Concern, Aquatic Preserve, and do not contain Outstanding Florida Waters. Uses planned for these lands comply with the Conceptual State Lands Management plan and represent "balanced public utilization".

Parcels that are owned by the state and leased to MDC-EEL are specified in the unit management plans in Part III.

### 5.3 Florida Communities Trust, Management Commitments

Grant funding from Florida Communities Trust (FCT) was used to acquire several properties managed by MDC-EEL and addressed in this plan. While these lands are owned by MDC and are managed under MDC-EEL's authority described in 5.1, the matching funds provided by FCT carry with them certain obligations. This management plan ensures that the lands acquired with FCT funds will be developed in accordance with the grant award agreement and in furtherance of the purpose of the grant application. Additionally, management is guided by the purpose and intended use of the land described in the land acquisition project selection process. Other statutes and rules also control the use of the land. For lands acquired with FCT matching funds, an annual stewardship report will be prepared and submitted to FCT each year. The annual report will evaluate the implementation of this management plan.

The FCT grant application provides a foundation for the management plan. Commitments made in the application and reinforced by conditions of the grant funding were reviewed prior to drafting this plan and are reflected in this management plan. MDC-EEL funds were also used in the acquisition of these lands. This MDC-EEL program was established "for acquisition, preservation, enhancement, restoration, conservation and maintenance of environmentally-endangered lands for the benefit of present and future generations" (MDC Code Sec. 24-50.1.) and the plan reflects these purposes.

The Florida Communities Trust, Florida Forever Program Rule 9K-7.011, F.A.C. requires all grant recipients to submit a Management Plan for approval prior to the release of grant funds. The management plan is intended to describe how the recipient will manage a project site to further the purposes of the grant application and meet the terms and conditions of the FCT grant contract. It is hereby acknowledged that grant funding from FCT was used to acquire some of these sites and the management plan ensures that these sites will be developed in accordance with the grant award agreements and in furtherance of the purpose of the grant application.

### 5.4 Land Management Review

MDC-EEL funds are used in the acquisition of these lands. This program was established "for acquisition, preservation, enhancement, restoration, conservation and maintenance of environmentally-endangered lands for the benefit of present and future generations" (MDC Code Sec. 24-50.1.). The code also requires preparation of a ten-year management plan shall be prepared for each property acquired that:

- Identifies such management activities as are necessary to preserve, enhance, restore, conserve, maintain, or monitor the resource, as appropriate
- Identifies such uses as are consistent with the preservation, enhancement, restoration, conservation, and maintenance of the resource
- Estimates the annual costs of managing the project

As part of the project selection process, MDC-EEL staff perform an evaluation and make management recommendations. Those recommendations were considered in the drafting of this plan.

MDC Code 24-50 requires management plans to be updated at least every five (5) years from the last date of Board approval of the management plan. Please see Section 9.0, Schedule for Management Plan Updates, for more information.

Those lands acquired with MDC-EEL and CARL or Florida Forever funds are subject to the state's land management review process, defined in Chapter 259.036, F.S. In general, the review is conducted prior to the 10-year update of the management plan for an area. The manager is directed to consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

The last reviews of state-owned conservation lands managed by Miami-Dade County were in 1998 for the R Hardy Matheson Preserve and the Deering Estate (Cutler Ridge). At that time, the state leases for most of the MDC-EEL sites had not been processed and so management of most of the sites was not evaluated.

### 5.5 Compliance with State and Local Government Regulations

This land management plan is intended to comply with the Miami-Dade County Local Government Comprehensive Plan. The plan has been constructed to be consistent with the purposes of the Miami-Dade County Environmentally Endangered Lands (MDC-EEL) Program as described in Chapter 24 of the Code of Metropolitan Miami-Dade County. The properties shall be designated an Environmentally Protected Preserve according to the County Comprehensive Development Master Plan. The approval of the Miami-Dade County Board of County Commissioners is required for the plan. The proposed uses of these properties are consistent with the mandated uses as defined by State and Local Comprehensive Plans, and as approved by the Florida Department of Community Affairs.

For those lands owned by the state and leased to MDC, this plan is intended to be in compliance with the State Lands Management Plan, adopted March 17, 1981 by the Board of Trustees of the Internal Improvement Trust Fund and considering balanced public utilization, specific agency statutory authority, and other legislative or executive constraints.

For those lands acquired with FCT matching funds, the future land use and zoning designations for properties acquired was amended to conservation, outdoor recreation, open space, or other similar category within a year of acquiring the site. The Florida Communities Trust (FCT), Florida Forever Program Rule 9K-7.011, F.A.C. requires all grant recipients to submit a Management Plan for approval prior to the release of grant funds. The Management Plan is intended to describe how the recipient will manage a project site to further the purposes of the grant application and meet the terms and conditions of the FCT grant contract.

In the event that grant funding from FCT was used to acquire properties addressed in this plan, it is hereby acknowledged that the Management Plan was developed to ensure that the FCT-funded site will be developed in accordance with the Grant Award Agreement and in furtherance of the purpose of the grant application. Part III specifies which parcels were acquired with FCT funds.

# 6.0 Management Issues

Management issues that currently exist within MDC-EEL sites include impacts to rare organisms, native and non-indigenous pest organisms, fire frequency, edge effects, and fragmentation and connectivity of habitat. These issues are discussed in Part I of this management plan below and will be referenced when necessary in Parts II and III. Management issues that are unique to a single MDC-EEL habitat type or site will be discussed in detail in Parts II and III of this document.

## 6.1 Statement of General Intent

The Miami-Dade County Board of County Commissioners defined goals for the MDC-EEL Program. These goals are described in Section 3.0, Overview of MDC-EEL Program. Two goals relate directly to the management and use of the properties:

- To manage environmentally endangered lands with the primary objective of maintaining and preserving their natural resource values by employing management techniques that are most appropriate for each native community so that Miami-Dade County's natural heritage may be preserved for current and future generations
- To use the acquired sites, where feasible within financial restraints and with minimal risk to the environmental integrity of the site, to educate Miami-Dade County's school-age population and the general public about the uniqueness and importance of Miami-Dade County's subtropical ecosystems and natural communities

In addition to this mandated goal, the MDC-EEL Program should follow the goals of ecosystem management recommended by Grumbine (1994):

- Maintain viable populations of all native species *in situ*
- Represent, within protected areas, all native ecosystem types across their natural range of variation
- Maintain evolutionary and ecological processes (i.e., disturbance regimes, hydrological processes, nutrient cycles, etc.)
- Manage over periods of time long enough to maintain the evolutionary potential of species and ecosystems
- Accommodate human use and occupancy within these constraints

## 6.2 Existing Ecosystem Threats

Existing ecosystem threats that are currently a problem in many of the MDC-EEL preserves include impacts to rare organisms as well as native and non-indigenous pest organisms. These concerns are discussed in Part I of this management plan below and will be referenced when necessary in Parts II and III. Concerns that are unique to a single MDC-EEL habitat type or site will be discussed in detail in Parts II and III of this document.

### *6.2.1 Impacts to Rare Organisms*

Preserves in the MDC-EEL Program contain many species of plants and animals which are locally or globally rare. While some of these species were naturally rare before the non-indigenous settlement of Miami-Dade County, most have become rare because of habitat destruction, lack of habitat management, poaching, drainage, and other human associated problems. Many species have been eradicated from sites where they once occurred, or have been completely extirpated from Miami-Dade County, Florida, or North America.

Protection and management of rare organisms on MDC-EEL sites is critical to prevent their extinction. MDC-EEL sites should be managed to maintain or increase populations of rare organisms. Single-species management should generally be discouraged, and this is no exception on MDC-EEL sites. Management of rare species of MDC-EEL sites will in almost all cases correspond with overall habitat management goals, for example, the application of periodic prescribed fires in pine rocklands. In some cases standard habitat management protocols may need to be altered to protect rare species, such as different techniques for removing exotic hardwood species from rockland hammocks above solution holes with light-sensitive rare ferns. These situations will be discussed on a site-by site basis in Part III of this management plan.

Where appropriate, rare organisms should be augmented, reintroduced or introduced to sites where they are either rare, extirpated, or within their natural ranges, respectively. Recommendations for rare plant introductions are provided in Gann *et al.* (2002) and will be discussed on a site-by-site basis in Part III of this management plan.

### *6.2.2 Pest Organisms*

Both native and non-indigenous plant and animal species have become, or could potentially become pest species within MDC-EEL sites. This problem is discussed in Part I of this management plan below and will be referenced when necessary in Parts II and III. Specific pests and pest concerns that are unique to a single MDC-EEL habitat type or site will be discussed in detail in Parts II and III of this document.

#### 6.2.2.1 Invasive Non-indigenous Plants

Exotic invasive plants in or adjacent to natural areas should be a priority for removal on MDC-EEL sites. Exotic pest plants can modify a variety of properties at the ecosystem level and the community/population level (Gordon 1998). These changes can cause the ecosystem to cease to function or to resemble an ecosystem as historically found in the county. Ecosystem level effects (after Gordon 1998) include altered geomorphological processes (elevation, erosion, sedimentation), altered hydrology (water holding capacity, water table depth, surface flow patterns and rate), altered biogeochemical cycling (nutrient mineralization, nutrient immobilization, soil or water chemistry), and altered disturbance regime (type, frequency, intensity, duration). Community/population level effects (after Gordon 1998) include altered stand structure (new life form, vertical structure), altered recruitment of natives (allelopathy, microclimate changes, physical barrier), and altered resource competition (light absorption, water uptake, nutrient uptake, space preemption).

The Florida Exotic Pest Plant Council (FLEPPC) produces lists of Florida's invasive plants every two years. This list should be used for guidance in choosing target species for removal. Some sites may have exotic plant species that are not on the FLEPPC list because of their restricted range or because of unusual site-specific behavior.

When planning for exotic plant removal on a site, sparse populations of exotic plants should generally be prioritized for removal over dense populations, maximizing area controlled with the lowest possible cost.

Sites in the MDC-EEL Program contain populations of exotic plant species that are currently very limited in distribution in Florida, sometimes limited to a single preserve. Examples of these species include burma reed (*Neyraudia reynaudiana)*, small-leaf climbing fern (*Lygodium microphyllum*), Brazilian pepper (*Schinus terebinthifolius)*, and Australian-pine (*Casuarina equisetifolia*). While most exotic species will not become invasive (Gordon 1998), some will. Unfortunately, predicting invasibility is an imprecise science (Goodwin et al. 1999), making it difficult to know which exotic species will become problematic in natural areas. Species which are known to be invasive in other parts of Florida or similar climates elsewhere that are newly discovered on MDC-EEL properties should be prioritized for removal before they have a chance to spread within and between sites.

#### 6.2.2.2 Invasive Non-Indigenous Animals

The objectives of exotic invasive animal control at MDC-EEL preserves are to halt and reverse the spread of the spread of invasive naturalized exotic animal species and to prevent the establishment by populations new exotic animal species. The major issue is identification and acquisition of adequate funding for research into developing adequate control measures, acquisition of funding for control measures for invasive exotic animals, and overcoming delays in responses to invasive exotic animal problems at MDC-EEL preserves. Examples of these species include lobate lac scale (*Paratachardina lobata*), Feral domestic cat (*Felis catus*), and several non-native lizards.

##### 6.2.2.2.1 Feral Cat Colonies

The term feral cat refers to cats that have been separated from domestication, either through abandonment (dumping), loss, or running away, and become wild. The term also refers to descendants of such cats. Feral cats may live alone, but are often found in large groups called feral colonies with communal nurseries, depending on the availability of resources. The term feral cat colony generally refers to a noticeable population of feral cats living together in a specific location and utilizing a common food source, such as food scavenged from refuse bins, dumpsters, or supplementary feeding by humans, that reach an undesirable population density.

While adult feral cats that were born feral cannot be socialized, feral kittens can often be socialized with humans if they are less than 12 weeks old.

Free-roaming cats take a tremendous toll on native wildlife populations by direct predation and competition with native predators. Cats are non-indigenous predators that compete in the wild with native predators like owls, hawks, and foxes, because cats, being subsidized by humans,

outnumber these native predators and prey on the same small mammals and birds. This results in the reduction the prey base for native predators, making it difficult for native predators to feed themselves and their young. Cats also have been recognized as instinctive predators and a serious peril to threatened and endangered species such as the Key Largo cotton mouse, Key Largo woodrat, green sea turtle, roseate tern, and least tern.

Research should be conducted to determine if feral cat colonies are located in the vicinity of MDC-EEL preserves and their impacts to native fauna on the preserves. If feral cat colonies are located near MDC-EEL preserves, the element that sustains an undesirable population should be identified and eliminated (i.e., refuse bins, dumpsters, and supplementary feeding by humans).

#### 6.2.2.3 Native pests

Indigenous organisms may become pests in some MDC-EEL sites, including both plants and animals. Under certain conditions, some native species can become aggressive invaders in natural areas, altering ecosystem structure and successional processes, make restoration projects difficult, and displace many other native species. Control of indigenous pest species is recommended if they interfere with management goals. Pest species that are known to become problems in Miami-Dade County natural areas include species of flora such as moonflower (*Ipomoea alba*), muscadine grape (*Vitis rotundifolia*), southern cattail (*Typha domingensis*) and fauna such as the raccoon (*Procyon lotor*).

Control methods for most of these species are straightforward and well known by county management crews and contractors. Most plant pest species are easily controlled with herbicides such as Garlon (woody species) or RoundUp (herbaceous species). More experimentation, however, is needed for the control of lacy bracken fern in Miami-Dade County. This species can become very aggressive on some sites, especially after excessively hot fires or soil disturbance. In other parts of the world successful control has been achieved by using the herbicide Asulam (active ingredient is asulox). This herbicide is selective on bracken fern, other ferns, and some grasses. Control is achieved by cutting bracken fronds and applying Asulam to regrowth. Several treatments may be required.

Disturbed areas on MDC-EEL sites that do not have remnants of native ecosystems may have mixed populations of ruderal native and exotic plants, including herbs, graminoids, shrubs, and trees. Examples of native ruderal species that are common in disturbed sites but are not typically found in undisturbed natural areas include common beggarticks (*Bidens alba* var. *radiata*), bushy bluestem (*Andropogon glomeratus* var. *pumilus*), common wireweed (*Sida acuta*), common ragweed (*Ambrosia artemisiifolia*), false mallow (*Malvastrum corchorifolium*), American black nightshade (*Solanum americanum*), and blue porterweed (*Stachytarpheta jamaicensis*). Some plant species typically occur in both natural areas and disturbed areas. Examples include myrsine (*Rapanea punctata*), gumbo limbo (*Bursera simaruba*), Florida swampprivet (*Forestiera segregata*), and wild coffee (*Psychotria nervosa*). Site-specific plans will be provided in Part III of this management plan, but some disturbed areas may be used for re-creation of native habitats. The presence of the weedy native pest plants listed above, and many other native ruderal plant species should not limit extreme habitat modifications where necessary.

### *6.2.3 Fire Frequency*

Many of southern Florida's ecosystems are fire dependent, requiring periodic fires to serve a variety of ecosystem functions. Three habitat types which occur in MDC-EEL sites are fire dependent: Marl Prairie, Pine Rockland, and Scrubby Flatwoods. Tidal marshes, also on several MDC-EEL sites, may benefit from occasional fires, but are not necessarily fire dependent. The specific role of fire in each of these habitats is discussed in more detail in Part II of this management plan so only a broad overview is provided here. Beneficial impacts of fire on MDC-EEL sites include:

- Hardwood reduction
- Removal of dead wood
- Removal duff and leaf litter
- Increase in light penetration
- Nutrient cycling
- Improvement of wildlife habitat
- Stimulation of flowering and fruiting

Periodicity of Fire in South Florida Ecosystems

| | |
|---|---|
| Marl Prairie | ca. 3-7 years or shorter |
| Pine Rockland | 3-7 years |
| Scrubby Flatwoods | 3-8 years |

Most MDC-EEL sites have not been burned at frequent enough intervals, if at all, for decades. This is due to two primary factors. Extensive habitat clearing and fragmentation has greatly reduced the sizes of contiguous habitats. Prior to non-indigenous settlement a single lightning strike could have caused thousands of acres to burn in a single fire because of few barriers. Today, the chances of a lightning strike hitting a natural area are much smaller, and if a fire does ignite, it can burn only a limited area. In addition, active fire suppression by people has been widely practiced. If fires do start in natural areas they have often been extinguished. This has been done to protect homes and other structures, to control smoke, and in error to "protect" the habitat.

Lack of proper fire management has created a major difficulty for the current stewardship of MDC-EEL sites. Sites which have not burned frequently enough now have excessive fuel loads which make reintroduction of fire much more difficult. This fuel buildup on many MDC-EEL sites has caused a drop in richness of native plant species, especially herbs and graminoids. It has probably also changed wildlife assemblages. Reintroduction of fire to some MDC-EEL sites may induce some species to regenerate from dormant roots or a soil seed bank, but many species have probably become extirpated form the sites altogether.

Fire management on any MDC-EEL site will require special site preparation, including installation of fire breaks and conducting fuel reduction. Fire breaks will be necessary, where they do not already exist, around the perimeters of most MDC-EEL sites with fire maintained ecosystems. On larger examples of these sites additional fire breaks will be needed within the sites, delineating individual fire management units.

Implementation of a fire management program on both MDC-EEL sites and county parks has been a challenge for Miami-Dade County. The county does not have a fire crew that is capable of conducting prescribed burns without assistance. The county has relied on the Florida Division of Forestry to conduct prescribed burns on its sites, but this has been largely ineffective and will probably not be a viable long-term option. Negotiations between Miami-Dade County and Everglades National Park have been underway to allow the National Park Service fire crews to burn county sites, but this effort seems to have stalled and may not be resolved.

Other options need to be evaluated to implement an effective prescribed fire program in Miami-Dade County. One option is for the county to develop its own prescribed fire team and purchase necessary fire control equipment. This option may not be very cost effective since training staff and allowing them to develop the necessary experience may become very costly. A more appropriate option may be to hire a private contractor to conduct prescribed burns. Several companies in Florida will perform this service for government agencies. The Florida Division of Forestry would still be required to approve burn plans.

### *6.2.4 Edge Effects*

Because of their small size, all MDC-EEL sites have a large edge to area ratio. This extensive length of edge in relation to size of the site increases the exposure of natural areas to the disturbed surroundings, whether they be agricultural, suburban, or industrial. Abrupt transitions cause stress on protected areas from external influences and impacts to the edges of the sites. Typical changes caused by edges include:

- Micro-climate (e.g., humidity and air temperature)
- Soil moisture
- Biomass accumulation and decomposition rates
- Invasion of edge species, including plants and animals
- Deleterious human disturbances (trash/litter, wildlife interference, etc.)

The long-term impacts of edge effects on MDC-EEL sites are unknown, making it hard to manage the effects. Even when understood, control of many edge effects on MDC-EEL sites will not be possible, but some steps can be taken to minimize them. Specific actions will be discussed on a site-by site basis in Part III of this management plan. Examples of actions that will be necessary include:

- Control weed populations
- Limit soil disturbance (e.g., edges of farm fields, cars)
- Remove of garbage and debris and controlling dumping
- Control chemical drift from farm fields with buffer plantings

Control of chemical drift from agricultural fields around some MDC-EEL sites may be extremely important in the management of those sites. Examples include Loveland and Lucille Hammocks. The row crops around the sites are sprayed frequently with fertilizers, pesticides, fungicides, and herbicides. These sprays can drift into MDC-EEL sites. Depending on the type of chemical, quantity, and winds, these sprays could be having multiple impacts on the natural areas

in MDC-EEL sites. Fertilizers and herbicide sprays, for example, can cause changes in plant species richness and biomass production (Kleijn & Snoeijing 1997). Windbreaks composed of live vegetation have been proposed as a barrier to chemical drift, and examples have shown them to reduce drift by up to 80-90% (Ucar & Hall 2001). This may be an effective strategy around some MDC-EEL sites, not only to control chemical drift, but to minimize other edge effects such as microclimate changes.

### *6.2.5 Fragmentation and Connectivity*

The mitigation of the impacts of fragmentation, many of which are currently unknown, will need to become a long-range priority for the management of MDC-EEL sites. The extreme fragmentation of Miami-Dade's natural areas will especially cause species-level changes that could build into ecosystem level changes. The population sizes of many organisms in MDC-EEL sites may now be too small to support viable populations in the long-term. Extirpations can be expected in many groups, including plants, vertebrates, and insects. Many populations of plants and animals are also expected to lose genetic diversity within sites because of limited opportunities for outcrossing with other populations, since the closest populations may be several miles away.

Comparable to managing edge effect, management of the impacts of fragmentation is difficult in part because the impacts in MDC-EEL sites are not well known. Still, several measures can be taken to reestablish some biological linkage between MDC-EEL sites. These are discussed below. The use of native plant materials is preferred in items discussed below, including greenways, stepping stones, and urban reforestation. Lists of native plants that are preferable for use in specific areas, organized by zip code, can be found in the Natives for Your Neighborhood database at www.regionalconservation.org. Exotic plants which also benefit wildlife in providing cover and food can also be used but must be limited to species that do not naturalize in Florida.

*Greenways* – Greenways that connect natural areas can serve as corridors for the movement of many organisms, including vertebrates and also invertebrates that pollinate native plant species. Miami-Dade County is in the process of creating a Greenway network (Figure 3). The purpose of the greenway is mostly to expand recreational opportunities for county residents and visitors. Unfortunately, the proposed network intersects only a few MDC-EEL sites since it primarily follows major roads or canals. Establishment of mini-greenways within this system that do not provide recreational access like the major greenway system may be possible. These greenways could be as basic as lining county streets with suitable native plants to provide wildlife cover and host plants for pollinators.

*Stepping Stones* – Acquisition and restoration of degraded lands between MDC-EEL sites to provide stepping stones for wildlife may be feasible in some situations. While a full scale habitat re-creation on these lands would be desirable it would not be critical in improving linkage between MDC-EEL sites. The most important quality of these stepping stones would be the establishment of wildlife cover dominated by native plant species. A heterogeneity of vegetation would be most beneficial, with some areas of grasses and herbs, some of shrubs, and some of

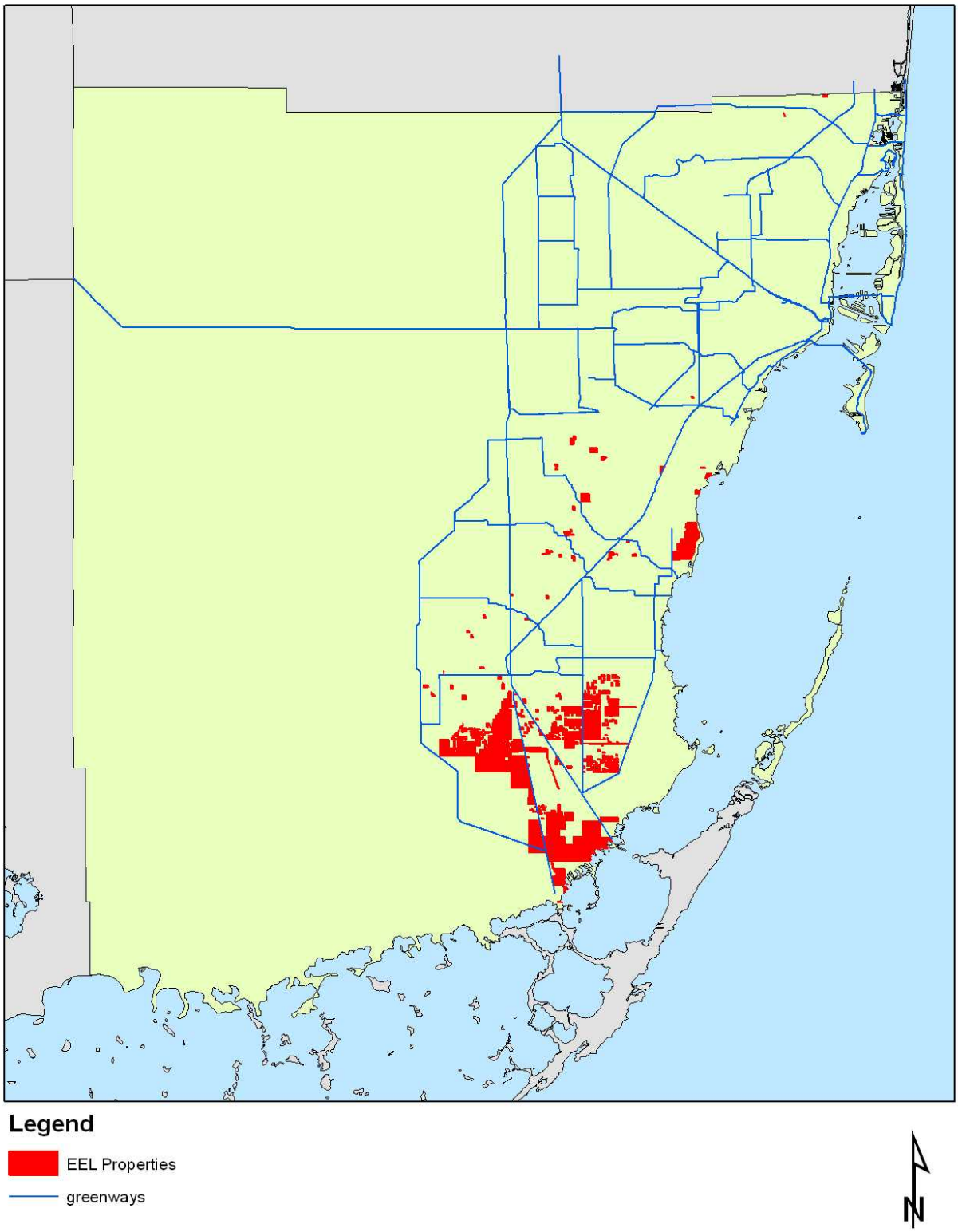


**Figure 3: Miami-Dade County Greenway Network and MDC-EEL Sites**

trees. Water features such as small ponds could also be installed to provide habitat for organisms with full time or seasonal water needs that use MDC-EEL sites.

*Urban Reforestation* – Establishment of vegetation other than lawns between MDC-EEL sites on private or public properties would benefit wildlife use and provide connectivity between MDC-EEL sites. While Miami-Dade County for the most part cannot control what vegetation occurs on private property between MDC-EEL sites, the county, as well as other agencies and NGOs, could work with home and business owners to encourage them to plant or keep beneficial species. Small areas of county or municipal parks and properties could also be used for revegetation. A diversity of native plant species in yards, parking lots, roadsides, and other open areas would provide food, cover, and nesting habitat for a variety of animal species.

*Underpasses* – Some MDC-EEL sites are separated from other MDC-EEL sites or other natural areas by roads. Examples include the Camp Owaissa Bauer Addition with Camp Owaissa Bauer, the Fuchs Hammock Addition with Fuchs Hammock, and Ross Hammock with Castellow Hammock Preserve. Traffic along roads which divide these natural areas is a hazard to wildlife, both vertebrates and invertebrates, which need to cross between the sites. Installation of underpasses beneath dividing roads would allow for safer crossing opportunities for vertebrates.

*Reintroductions* – Within MDC-EEL sites, extirpations of some plant and animal species are to be expected due to the impacts of fragmentation and small habitat size. It may be necessary to reintroduce plant and animal species from other sites to maintain populations in the long-term. Until genetic issues are better understood, reintroductions of any organisms should use genotypes that are derived from appropriate regional populations.

*Cross Pollination or Fertilization* – Cross-pollination or fertilization of organisms between MDC-EEL sites may be needed to manage the effects of genetic bottlenecks on small populations. This could be accomplished by moving animals between sites, cross pollinating some plant species by hand, or augmenting plant populations with germplasm from other sites.

## 6.3 Public Access and Uses

In keeping with the mandate of the MDC-EEL Program, the intent of preserving these properties is to maintain or improve the integrity of the site's natural and cultural resources. Consequently, most MDC-EEL sites are not open to the general public.

However, In order to educate the public about natural areas, limited public access may be permitted, where appropriate. The intent is to allow public access for passive recreation activities with minimal negative impacts to the sites and their resources. Other public uses may include supervised planting and cleanup activities, nature trails, and wildlife observations.

### *6.3.1 Public Perception*

Public perception of the value associated with the conservation of the MDC-EEL Program preserves is important for the success of the program. Educating the general public about those values is critical for their appreciation and support and the MDC-EEL Program will make every

attempt possible to increase the awareness of the communities adjacent to the individual sites, involving them in the sites planning and management.

In addition, the program will take advantage of signs to inform the neighbors and visitors about the general and specific values of each preserve. Signage will be further developed for each site in Part III of this management plan.

MDC-EEL sites have required signage to comply with county regulations as well as with partners' requirements. For example, a 'Miami-Dade County Protected Natural Area' sign with contact information and a 'No Trespassing' sign are the current priority.

In Part III, this management will explore the possibilities for conveying appropriate message to neighbors and visitors, at each specific site. Minimal considerations will include the proper name of the site, the outstanding ecological values justifying its preservation in perpetuity and the type of public access and uses that are allowed.

### *6.3.2 General Preserve Rules and Regulations*

As mentioned above, certain human uses are incompatible with the primary objective of preserving habitat and biological species. For example, the placement of baseball fields and activities such as ATV and off-road vehicle use, paintball games, camping, hunting, mineral and timber extraction, swimming, and livestock grazing are not appropriate for these sites. The removal of plants, animals, archaeological, and cultural resources is prohibited. A list of conditionally allowed uses as well as those that are not permitted is included in Table 3.

## 6.4 Contingency Management

The purpose of contingency management within MDC-EEL sites is to provide the organizational structure and procedures for preparing for and responding to emergency situations such as accidental habitat destruction, pollution, oil spills, catastrophic fires, pest outbreaks, and security issues. The key to contingency management is to have a predetermined plan set in writing before any emergency action is required. Obviously, these management procedures will only be utilized if all preventative management plans were to fail.

### *6.4.1 Frequency of Site Inspections*

Frequent MDC-EEL site inspections will result in a decreased need for many aspects of contingency management. Therefore, it is very important to ensure that site inspections are conducted as scheduled by the county. Appropriate frequency of MDC-EEL site inspection shall be determined by the county, with a minimum requirement of semi-monthly inspection by a site manager. Site inspections of each MDC-EEL site can be increased or decreased each month, dependant upon need.

### *6.4.2 Habitat Destruction*

Emergency response to habitat destruction at an MDC-EEL site shall consist of both restoration and/or mitigation for the damage, as appropriate.

Examples of habitat destruction include:

- Overextension of residential property boundaries into MDC-EEL sites
- Direct and indirect impacts from development of surrounding areas
- Encroachment of artificially planted exotic vegetation from nearby residential areas
- Direct impacts from traffic accidents crossing the boundary of an MDC-EEL site

If habitat destruction is discovered within an MDC-EEL preserve, appropriate defensive actions should be immediately initiated to prevent further destruction, minimize impacts to habitat and wildlife, restore damaged areas, and mitigate for damage. Examples of actions that may be taken include identification of the source of destruction, immediate halting of destruction, removal of exotic vegetation by chemical or physical means, replanting of appropriate native vegetation, off-site (another MDC-EEL site) mitigation for irrecoverable destruction, and site protection during adjacent site development (see Section 6.4.2.1). Documentation shall be collected and maintained to support all actions taken to ensure a full cost recovery from responsible parties.

| Use | Site Availability | Comments |
|---|---|---|
| Agriculture | No | Incompatible with nature preservation |
| Apiaries | No | Competition with native pollinators; liability |
| ATVs and Off-Road Vehicles | No | Damaging to vegetation/wildlife |
| Camping | Conditional | Not on site, but there may be campsites adjacent to the MDC-EEL site |
| Cattle | No | Not compatible for maintaining native plant cover and community integrity |
| Dogs | No | Incompatible with wildlife |
| Fishing | Conditional | Site-specific compatibility; state license required; release of exotics to be prohibited |
| Horses | No | Incompatible due to required trails and fecal weed sources |
| Hunting | No | Incompatible with wildlife/nature observation |
| Linear Facilities | Conditional | On marked trails only. |
| Mineral Extraction | No | Incompatible with geologic integrity |
| Cycling | Conditional | Site specific; on marked trails only |
| Paintball | No | Incompatible with nature preservation |
| Removal of Plants, Animals, Archaeological, and Cultural Resources | No | Exceptions – county-approved vegetation maintenance or scientific studies |
| Swimming | No | Incompatible with nature preservation |
| Timber Extraction | No | Incompatible with nature preservation |
| Environmental Education | Conditional | At selected sites |
| Wildlife Observation | Conditional | At selected sites |
| Hiking | Conditional | On marked trails only |
| Special Events (weddings, receptions, movies, etc.) | Conditional | Not on site, but there may be venues adjacent to the MDC-EEL site |

**Table 3: General MDC-EEL Preserve Rules and Regulations**

#### 6.4.2.1 Site Protection During Adjacent Site Development

It will be necessary for Miami-Dade County to ensure that all site development that is to occur adjacent to any MDC-EEL preserve property is properly permitted prior to the commencement of any construction activities. All existing local, state, and federal regulations should be strictly followed and enforced during any site development adjacent to an MDC-EEL preserve. It will be the responsibility of the developer to establish and utilize turbidity and erosion control measures (i.e., rock bags, silt fences, turbidity barriers, appropriate landscaping, etc.), wildlife protection measures (i.e., protective fencing or barriers), and vegetation protection measures (i.e., protective fencing or barriers). If the necessary control measures are not taken by any site developer adjacent to an MDC-EEL site, construction shall be immediately halted until control measures are put into place and mitigation and/or remediation will be the sole responsibility of the developer.

### *6.4.3 Pollution*

Possible sources of water and soil pollution to an MDC-EEL site that may require emergency attention include:

- Dumping of yard debris by adjacent residential property owners
- Littering in or around MDC-EEL preserve property by visitors or those passing by
- Malfunctioning or overflowing septic systems in adjacent residential properties
- Runoff from nearby residential, commercial, or agricultural areas
- Runoff from nearby development

A contingency response plan should be put into action for any possible pollution within an MDC-EEL preserve. This plan shall consist of the following phases:

- Phase I (discovery or notification) – Discovery or notification of pollution can occur by responsible parties, deliberate search patrols, or incidental observation by a government official or the public.
- Phase II (preliminary assessment and initiation of action) – The preliminary assessment should be conducted using all available information, supplemented by a site inspection. This assessment shall determine the magnitude and severity of the pollution and the threat to public health or welfare or the environment. Once the magnitude and severity of the pollution has been determined, the feasibility for removal should be assessed.
- Phase III (containment, countermeasures, cleanup, and disposal) – As appropriate, defensive actions shall begin as soon as possible to prevent, minimize, or mitigate threat(s) to the public health or welfare or the environment. These actions may include environmental sampling, removing or controlling the source of pollution, placement of physical barriers to deter the spread of the pollution and protect natural resources, and the use of chemicals to restrain the pollution. The pollution source and contaminated materials shall be disposed of in accordance with all applicable laws, regulations, and requirements.
- Phase IV (cost recovery) – Documentation shall be collected and maintained to support all actions taken to ensure a full cost recovery from responsible parties.

### *6.4.4 Oil Spills*

If an oil spill occurs within an MDC-EEL site, it should be the policy of Miami-Dade County to generally follow the Operational Response Phases for Oil Removal of the National Oil and Hazardous Substances Pollution Contingency Plan, as outlined in 40 CFR, Part 300, Subpart D. This plan shall consist of the following phases:

- Phase I (discovery or notification) – Discovery or notification of a spill can occur by responsible parties, deliberate search patrols, or incidental observation by a government official or the public.
- Phase II (preliminary assessment and initiation of action) – The preliminary assessment should be conducted using all available information, supplemented by a site inspection. This assessment shall determine the magnitude and severity of the spill and the threat to public health or welfare or the environment. Once the magnitude and severity of the spill has been determined, the feasibility for removal should be assessed.
- Phase III (containment, countermeasures, cleanup, and disposal) – As appropriate, defensive actions shall begin as soon as possible to prevent, minimize, or mitigate threat(s) to the public health or welfare or the environment. These actions may include environmental sampling, controlling the source of discharge, placement of physical barriers to deter the spread of the oil and protect natural resources, and the use of chemicals to restrain the spill. Oil and contaminated materials shall be disposed of in accordance with all applicable laws, regulations, and requirements.
- Phase IV (cost recovery) – Documentation shall be collected and maintained to support all actions taken to ensure a full cost recovery from responsible parties.

### *6.4.5 Catastrophic Fires*

Upon implementation of a thorough Fire Management Plan, the possibility of an uncontrolled catastrophic fire occurring within an MDC-EEL site should be minimal. However, even with the strict implementation of a preventative fire management plan, it is still possible for an unwanted fire to ignite and spread to a point that it becomes detrimental to MDC-EEL habitat or surrounding areas. If such a fire were to occur within an MDC-EEL site, it should be the policy of Miami-Dade County to develop a written MDC-EEL Fire Contingency Management Plan using existing national, state, and local fire emergency response laws and regulations as a guideline and to adopt policies and procedures that are applicable to MDC-EEL sites.

The current national, state, and local policy framework in place for emergency fire management includes:

- The National Fire Plan
- The Wildland Fire Use Implementation Procedures Reference Guide (adopted by the U.S. DOI Bureau of Land Management, the U.S. DOI Bureau of Indian Affairs, the U.S. DOI Fish and Wildlife Service, the National Park Service, and the U.S. Department of Agriculture Forest Service)
- Chapter 590 (Forest Protection) of the Florida Statutes
- The policies of Miami-Dade Fire Rescue

Issues and goals that should be addressed as part of the MDC-EEL site Fire Contingency Management Plan are:

- Reporting/communication procedures between county emergency response services and MDC-EEL management
- Assurance that necessary firefighting resources and personnel are available to respond to fires immediately
- Post-burn evaluations and immediate conduction of emergency stabilization and rehabilitation activities following the fire
- Penalties (i.e., prosecution and fines) for accidental or intentional fire ignition within and MDC-EEL site (including, but not limited to, disposing of lighted substances, recreational fires, and unauthorized burning yard vegetation and debris) or violation of regulations even if such violations do not lead to fire ignition
- Rewards for public citizens who assist in the identification of responsible parties

### *6.4.6 Pest Outbreaks*

The control methods for the outbreak of pests are fairly straightforward and well known by county management crews and contractors and the need for contingency management of pests within MDC-EEL preserve areas should be kept to a minimum with routine pest management. See Section 6.1.3 of this document for applicable control procedures. The county should be prepared to enact any and all of these control procedures on immediate notice from an MDC-EEL site manager that an uncontrolled pest outbreak has occurred. Problem pests include mites, beetles and other insects, scales, snails and slugs, and raccoons.

### *6.4.7 Hurricanes*

MDC-EEL sites may occasionally be subjected to strong winds and/or flooding from tropical storm or hurricane events. After ensuring all immediate safety concerns have been addressed, post-hurricane evaluations should be conducted at all MDC-EEL sites to determine the extent and severity of damage to vegetation, wildlife, and structures within each property. Signs should also be placed around all MDC-EEL properties to ensure that no dumping of hurricane debris occurs on any site. Immediate conduction of emergency stabilization and rehabilitation activities should be initiated in accordance with the findings of the post-hurricane evaluation. These actions may include, but are not limited to, removal of hurricane debris, replanting of native species, removal of exotic species, and replacement of security barriers and signing, as applicable. Each MDC-EEL property will have site-specific management concerns which will be addressed in Part III of this management plan.

### *6.4.8 Security Management*

At times, it may be necessary to enforce certain security measures to ensure the preservation of MDC-EEL sites. These measures may include, but are not limited to, fencing, signage, patrolling by county personnel, and continuous manning of entrances to sites. MDC-EEL currently has a relationship with the Environmental Crimes Unit of the Miami-Dade Police force, which performs weekly patrols at MDC-EEL sites. If any security measure fails and security at an MDC-EEL site is breached, the site manager (or any persons observing such a violation) should

report such actions to the Miami-Dade County Police Department. It will then be the responsibility of the county to take appropriate action (e.g., fines, banishment from the property in the future, etc.)

### 6.5 Public Involvement

Citizen participation should be an important component of any government planning effort. A management advisory group and public hearings are required for management plans for state-owned lands (Ch. 259.032(10), Florida Statutes). Some of the lands managed by MDC-EEL are leased from the state. Miami-Dade County elected to include all MDC-EEL lands in this public process.

## 7.0 Monitoring, Research, and Information Needs

A long-term biological monitoring program is needed on all sites in the MDC-EEL Program. This monitoring program should be used to determine changes in ecosystem diversity, structure, and functioning and determine the effectiveness of management activities. In addition to site-specific monitoring, research is also needed to determine the biological consequences of habitat fragmentation and to formulate management solutions.

### 7.1 Current Research and Monitoring Projects

Some monitoring programs are underway. In 1994-1995 Fairchild Tropical Botanical Garden (FTBG) established vegetation monitoring plots in pine rockland habitats on 12 MDC-EEL sites (Table 4). Plots at seven (7) of these MDC-EEL sites were re-sampled by FTBG and The Institute for Regional Conservation in 2003 (Table 4). These plots should be re-sampled at least at 10-year intervals to detect changes in plant species composition and vegetation structure in pine rocklands.

| MDC-EEL Site | Sampling Date | |
|---|---|---|
| | 1994-1995 | 2003 |
| Camp Owaissa Bauer Addition | Yes | No |
| Deering Estate South Addition | Yes | Yes |
| Florida City Pineland | Yes | No |
| Ingram Pineland | Yes | Yes |
| Ludlam Pineland | Yes | Yes |
| Nixon Smiley Addition | Yes | No |
| Palm Drive Pineland | Yes | No |
| Rock Pit 39 | Yes | No |
| Sunny Palms Pineland | Yes | Yes |
| Tamiami Pineland Complex Addition | Yes | Yes |

**Table 4: Vegetation Monitoring on MDC-EEL Sites by Fairchild Tropical Botanic Garden and the Institute for Regional Conservation**

Jennifer Possley with FTBG has implemented a rare plant monitoring program in Miami-Dade County parks, including MDC-EEL sites, focusing on plants in Gann *et al.* (2002). To date, Possley has monitored rare plants on the following MDC-EEL properties:

- Deering South Addition
- Goulds Pineland
- Harden Hammock
- Hattie Bauer Hammock
- Ingram Pineland
- Ludlam Pineland
- Meissner Hammock
- Nixon Smiley Pineland Addition
- Rockdale Pineland
- Ross Hammock
- Silver Palm Groves
- Sunny Palms Pineland
- Tamiami Complex Addition
- Tree Island Park

It should be noted that Miami-Dade County hired the Institute for Regional Conservation (IRC) in 2004 to perform invasive plant inventories for MDC-EEL sites.

Wildlife surveys have been conducted on some MDC-EEL sites. One project, started by Steven Hoffstetter, formerly with the Miami-Dade County Department of Environmental Resources Management, in 1999, is still in progress. The purpose of the project is to document wildlife occurrences at county preserves, including some MDC-EEL sites. It is now being completed by Miami-Dade County and The Institute for Regional Conservation.

### 7.2 Long-term Ecosystem Changes

As noted above, long-term ecosystem monitoring is needed for sites in the MDC-EEL Program. An ecosystem monitoring program should de developed to detect long-term changes in vegetation structure and composition. While long-term monitoring plots do exist in pine rockland ecosystems at some MDC-EEL sites, similar plots have not been installed in other ecosystems, including marl prairie, rockland hammock, scrubby flatwoods, tidal marsh, or tidal swamp. Establishing monitoring plots in these ecosystems on MDC-EEL sites should be a priority.

### 7.3 Management Impacts

Monitoring should be conducted on MDC-EEL sites to determine the effectiveness and long-term impact of different management techniques. As described in Section 7.0, some monitoring that fulfills this purpose is underway in pine rocklands and on rare plant populations. Monitoring needs to be initiated in other habitat types and in disturbed areas where restoration activities are taking place.

### 7.4 Other Research Needs

All MDC-EEL sites should have basic biotic data, including plant and vertebrate inventories, and, at a minimum for invertebrates, lists of butterflies and skippers. These data are essential to guide management decisions. In addition they will allow managers to determine if there are species extirpations or invasions that need to be addressed.

In the long-term, more research is needed to determine the effects of habitat fragmentation and isolation, edge effects, surrounding land uses, and effects of chemical runoff and drift from other properties. Research needs to be conducted at the species level and the ecosystem level. In addition, sea level rise will be an important research component for some sites, such as the Deering South Addition.

### 7.5 Issuance of Research Permits

Research and monitoring activities that contribute to the understanding of the ecology of MDC-EEL sites and that can be used to direct management decisions should be strongly encouraged. Otherwise, projects with no foreseeable benefit to MDC-EEL sites, especially those that involve destructive sampling (e.g., collection of specimens) should be limited or prevented.

A research permit is required for any scientific study on county lands. MDC-EEL does permit plant and animal collection. Permit requests are reviewed on a case by case basis. Those granted require that the collections be supervised by a county biologist, and the purposes of the collection must be for scientific research, typically associated with a university or facility such as Fairchild Tropical Botanic Garden. No collections for private use or revenue bearing activity (such as nursery trade) are allowed.

Researchers obtaining permits should be required to submit annual reports and copies of all data. Research stations, including all marked plots, should be recorded with GPS coordinates by the researcher. These materials should be archived by the MDC-EEL Program. Upon completion of research projects, any research implements that were installed as part of the project should be removed, including plot markers in the ground, flagging tape, tags, etc., unless they can be used by other researchers in the future.

## 8.0 Record Keeping

The MDC-EEL program should develop a centralized storage system for all data relevant to its properties. Specific data management recommendations are discussed below. Maintenance of long-term records in an organized fashion will permit better management decision to be made based on all available data, and will allow data retrieval to be done efficiently. All databases maintained by the MDC-EEL program should, where possible, be integrated with, or linked to, other County databases.

### 8.1 GIS Data

All GIS data should be stored following Miami-Dade County GIS protocols, State Plane, Florida East (Feet), NAD83.

GIS data should be maintained for property boundaries, parcel acquisition dates, natural communities, rare plant and animal locations, cultural and historical sites, research plots, and other appropriate data.

### 8.2 Biological Monitoring

All data from biological research programs should be maintained in a permanent archive, including reports and publications, field data, and study plot locations.

### 8.3 Flora and Fauna Inventories

Data from biological inventories should be maintained in a relational database, such as Microsoft Access. All inventory data, including lists or observations, should include researcher name/s and dates, and maps of sample locations. This database should be linked to GIS files (shape files or geodatabase).

### 8.4 Property boundaries, entrances, trails, facilities, etc.

Locations of all physical structures on properties should be maintained in GIS files or CAD files for each site.

## 9.0 Schedule for Management Plan Updates

Section 24-50.12 of the Miami-Dade County Code specifies the following time frame for updates to the MDC-EEL Management Plan:

- A ten-year management plan shall be prepared for each property acquired by the MDC-EEL Program.
- Annually, the ten-year management plans prepared during the preceding year shall be submitted to the Board of County Commissioners for its approval.
- Each ten-year management plan shall be updated at least every five (5) years from the last date of Board approval, and may be amended as often as required.
- Management plan updates and amendments shall be submitted to the Board of County Commissioners for approval.

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# Appendix A

**Florida Statutes**
**Title XVIII (Public Lands and Property)**
**Chapter 253 (State Lands)**

**and**

**Florida Statutes**
**Title XVIII (Public Lands and Property)**
**Chapter 259 (Land Acquisitions for Conservation or Recreation)**

**TITLE XVIII PUBLIC LANDS AND PROPERTY**

**FLORIDA STATUTES CHAPTER 253**

**STATE LANDS**

253.001 Board of Trustees of the Internal Improvement Trust Fund; duty to hold lands in trust.

253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.

253.01 Internal Improvement Trust Fund established.

253.02 Board of trustees; powers and duties.

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253.0325 Modernization of state lands records.

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253.034 State-owned lands; uses.

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253.04 Duty of board to protect, etc., state lands; state may join in any action brought.

253.05 Prosecuting officers to assist in protecting state lands.

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253.121 Conveyances of such lands heretofore made, ratified, confirmed, and validated.

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253.14 Rights of riparian owners; board of trustees to defend suit.

253.141 Riparian rights defined; certain submerged bottoms subject to private ownership.

253.21 Board of trustees may surrender certain lands to the United States and receive indemnity.

253.29 Board of trustees to refund money paid where title to land fails.

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253.37 Survey to be made; sale of lands; preference to buyers.

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253.39 Surveys approved by chief cadastral surveyor validated.

253.40 To what lands applicable.

253.41 Plats and field notes filed in office of Board of Trustees of Internal Improvement Trust Fund.

253.42 Board of trustees may exchange lands.

253.421 Lands proposed for exchange considered of equal value; time limit for exchange; public purpose requirement; reverter clause.

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253.43 Convey by deed.

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253.44 Disposal of lands received.

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253.451 Construction of term "land the title to which is vested in the state."

253.47 Board of trustees may lease, sell, etc., bottoms of bays, lagoons, straits, etc., owned by state, for petroleum purposes.

253.51 Oil and gas leases on state lands by the board of trustees.

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253.781 Retention of state-owned lands along former Cross Florida Barge Canal route; creation of Cross Florida Greenways State Recreation and Conservation Area; authorizing transfer to the Federal Government for inclusion in Ocala National Forest.

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.

253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Office of the Executive Director.

253.7822 Boundaries of the Cross Florida Greenways State Recreation and Conservation Area; coordination of management activities.

253.7823 Disposition of surplus lands; compensation of counties located within the Cross Florida Canal Navigation District.

253.7824 Sale of products; proceeds.

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253.7826 Canal structures.

253.7827 Transportation and utility crossings of greenways lands.

253.7828 Impairment of use or conservation by agencies prohibited.

253.7829 Management plan for retention or disposition of former Cross Florida Barge Canal lands; authority to manage lands until disposition.

253.783 Additional powers and duties of the department; disposition of surplus lands; payments to counties.

253.784 Contracts.

253.785 Liberal construction of act.

253.80 Murphy Act lands; costs and attorney fees for quieting title.

253.81 Murphy Act; tax certificates barred.

253.82 Title of state or private owners to Murphy Act lands.

253.83 Construction of recodification.

253.86 Management and use of state-owned or other uplands; rulemaking authority.

**253.001 Board of Trustees of the Internal Improvement Trust Fund; duty to hold lands in trust.**--The existence of the Board of Trustees of the Internal Improvement Trust Fund is reaffirmed. All lands held in the name of the board of trustees shall continue to be held in trust for the use and benefit of the people of the state pursuant to s. 7, Art. II, and s. 11, Art. X of the State Constitution.

**History.**--s. 1, ch. 79-255.

**253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.**--

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75 and 597.010. However, the board of trustees shall retain the

authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection.

(2) Delegations to the department, or a water management district, or the Department of Agriculture and Consumer Services of authority to take final agency action on applications for authorization to use submerged lands owned by the board of trustees, without any action on behalf of the board of trustees, shall be by rule. Until rules adopted pursuant to this subsection become effective, existing delegations by the board of trustees shall remain in full force and effect. However, the board of trustees is not limited or prohibited from amending these delegations. The board of trustees shall adopt by rule any delegations of its authority to take final agency action without action by the board of trustees on applications for authorization to use board of trustees-owned submerged lands. Any final agency action, without action by the board of trustees, taken by the department, or a water management district, or the Department of Agriculture and Consumer Services on applications to use board of trustees-owned submerged lands shall be subject to the provisions of s. 373.4275. Notwithstanding any other provision of this subsection, the board of trustees, the Department of Legal Affairs, and the department retain the concurrent authority to assert or defend title to submerged lands owned by the board of trustees.

**History.**--s. 4, ch. 79-255; s. 5, ch. 93-213; s. 488, ch. 94-356; s. 1, ch. 2000-364; s. 3, ch. 2005-157.

**253.01 Internal Improvement Trust Fund established.**--

(1)(a) So much of the 500,000 acres of land granted to this state for internal improvement purposes by an Act of Congress passed March 3, A. D. 1845, as remains unsold, and the proceeds of the sales of such lands heretofore sold as now remain on hand and unappropriated, and all proceeds that may hereafter accrue from the sales of such lands; and all the swampland or lands subject to overflow granted this state by an Act of Congress approved September 28, A. D. 1850, together with all the proceeds that have accrued or may hereafter accrue to the state from the sale of such lands, are set apart, and declared a separate and distinct fund called the Internal Improvement Trust Fund of the state, and are to be strictly applied according to the provisions of this chapter.

(b) All revenues received from application fees charged by the Division of State Lands for the use in any manner, lease, conveyance, or release of any interest in or for the sale of state lands, except revenues from such fees charged by the Department of Agriculture and Consumer Services for aquaculture leases under ss. 253.71(2) and 597.010, must be deposited into the Internal Improvement Trust Fund. The fees charged by the division for reproduction of records relating to state lands must also be placed into the fund. Revenues received by the Department of Agriculture and Consumer Services for aquaculture leases under ss. 253.71(2) and 597.010 shall be deposited in the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

(c) Notwithstanding any provisions of law to the contrary, if title to any state-owned lands is vested in the Board of Trustees of the Internal Improvement Trust Fund and the lands are located within the Everglades Agricultural Area, then all proceeds from the sale of any such lands shall be deposited into the Internal Improvement Trust Fund. The provisions of this paragraph shall not apply to those lands acquired pursuant to ss. 607.0505, and [1]620.192, or chapter 895.

(2) All revenues accruing from sources designated by law for deposit in the Internal Improvement Trust Fund shall be used for the acquisition, management, administration, protection, and conservation of state-owned lands.

**History.**--s. 1, ch. 610, 1854; RS 428; GS 616; RGS 1054; CGL 1384; s. 2, ch. 61-119; s. 1, ch. 82-185; s. 13, ch. 84-330; s. 23, ch. 89-175; s. 3, ch. 89-279; s. 16, ch. 89-324; s. 3, ch. 91-80; s. 1, ch. 91-187; s. 2, ch. 91-286; s. 1, ch. 92-109; s. 41, ch. 93-164; s. 489, ch. 94-356; s. 2, ch. 2000-364; ss. 40, 53, ch. 2001-254; s. 4, ch. 2003-2.

[1]**Note.**--Repealed by s. 25, ch. 2005-267.

**253.02 Board of trustees; powers and duties.**--

(1) For the purpose of assuring the proper application of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund for the purposes of this chapter, the land provided for in ss. 253.01 and 253.03, and all the funds arising from the sale thereof, after paying the necessary expense of selection, management, and sale, are irrevocably vested in a board of four trustees, to wit: The Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture and their successors in office, to hold the same in trust for the uses and purposes provided in this chapter, with the power to sell and transfer said lands to the purchasers and receive the power to sell and transfer said lands to the purchasers and receive payment for the same, and invest the surplus moneys arising therefrom, from time to time, in stocks of the United States, stocks of the several states, or the internal improvement bonds issued under the provisions of law; also, the surplus interest accruing from such investments. Said board of trustees has all the rights, powers, property, claims, remedies, actions, suits, and things whatsoever belonging to them, or appertaining before and at the time of the enactment hereof, and they shall remain subject to and pay, fulfill, perform, and discharge all debts, duties, and obligations of their trust, existing at the time of the enactment hereof or provided in this chapter.

(2) The board of trustees shall not sell, transfer, or otherwise dispose of any lands the title to which is vested in the board of trustees except by vote of at least three of the four trustees.

(3) In the event submerged tidal land is to be sold and transferred by said board of trustees, the board of trustees shall first require the Department of Environmental Protection to inspect said lands and to file a written report with the board of trustees which report shall state whether or not the development of said lands would be detrimental to established conservation practices.

(4) The board of trustees is authorized to acquire by condemnation such submerged lands, except Murphy Act Lands and Holland Act Lands, as shall be in the public interest and for a public purpose.

(5) The board of trustees shall be a necessary party to any action or petition which seeks to acquire submerged lands or lands lying beneath any navigable waters in the state through eminent domain proceedings.

**History.**--s. 2, ch. 610, 1854; RS 429; GS 617; RGS 1055; CGL 1385; s. 2, ch. 61-119; s. 1, ch. 67-5; s. 1, ch. 67-269; s. 1, ch. 67-2236; ss. 25, 27, 35, ch. 69-106; s. 1, ch. 69-300; s. 1, ch. 70-358; s. 8, ch. 79-65; s. 2, ch. 82-185; s. 64, ch. 94-356; s. 13, ch. 2003-6.

**253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.**--

(1) Neither the Board of Trustees of the Internal Improvement Trust Fund nor its duly authorized agent shall commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless the provisions of this section have been fully complied with. However, the board of trustees may substitute federally mandated acquisition procedures for the provisions of this section when federal funds are available and will be utilized for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures. Notwithstanding any provisions in this section to the contrary, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(2) Prior to any state agency initiating any land acquisition, except as pertains to the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(4) For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(5) Evidence of marketable title shall be provided by the landowner prior to the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, where the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.

(6) Prior to negotiations with the parcel owner to purchase land pursuant to this section, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. When a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.

(b) Appraisal fees shall be paid by the agency proposing the acquisition. The board of trustees shall approve qualified fee appraisal organizations. All appraisals used for the acquisition of

lands pursuant to this section shall be prepared by a member of an approved appraisal organization or by a state-certified appraiser. The Division of State Lands shall adopt rules for selecting individuals to perform appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the agency, submit to that agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(c) The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the Minimum Technical Standards for Land Surveying in Florida published by the Department of Business and Professional Regulation and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time prior to submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time prior to conveyance of title to the parcel. The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.

(d) Appraisal reports are confidential and exempt from the provisions of s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. However, the Division of State Lands may disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the division to purchase and hold property for subsequent resale to the division. In addition, the division may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this paragraph, "nonprofit organization" means an organization whose purpose is the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid.

(e) Prior to acceptance of an appraisal, the agency shall submit a copy of such report to the Division of State Lands. The division shall review such report for compliance with the rules of the board of trustees. With respect to proposed purchases in excess of $250,000, this review shall include a general field inspection of the subject property by the review appraiser. The review appraiser may reject an appraisal report following a desk review, but is prohibited from approving an appraisal report in excess of $250,000 without a field review. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(f) The appraisal report shall be accompanied by the sales history of the parcel for at least the prior 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or its cost prohibitive compared to the value of a parcel, the sales history may be waived by the Secretary of Environmental Protection or the director of the Division of State Lands. The department shall adopt a rule specifying guidelines for waiver of a sales history.

(g) The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(7)(a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, contracts for real estate commission fees.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from the provisions of s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

(e)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.

3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

(f) When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(g) The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement shall not be considered a part of the purchase price.

(h) A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Division of State Lands with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement

outlining the public purpose for which the acquisition is being made and the statutory authority therefore.

(i) Within 45 days of receipt by the Division of State Lands of the agreement for purchase and the required documentation, the board of trustees or, when the purchase price does not exceed $100,000, its designee shall either reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(8)(a) No dedication, gift, grant, or bequest of lands and appurtenances may be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state either in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(b) No deed filed in the public records to donate lands to the Board of Trustees of the Internal Improvement Trust Fund shall be construed to transfer title to or vest title in the board of trustees unless there shall also be filed in the public records, a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands.

(9) Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.

(10) The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(11) The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days following the final approval by the board of land acquisitions under this section. If an audit is conducted, the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(12) The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out the purposes of this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

(13)(a) The Board of Trustees of the Internal Improvement Trust Fund may deed property to the Department of Agriculture and Consumer Services, so that the department shall be able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (5)-(9). Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (5)-(9), the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion shall not apply to lands acquired for conservation purposes in accordance with s. 253.034(6)(a) or (b).

(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of the sale shall go into the Department of Agriculture and Consumer Services Relocation and Construction Trust Fund. The Legislature may, at the request of the department, appropriate such money within the trust fund to the department for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land, from any sale, conveyance, exchange, trade, or transfer conducted as provided for in this subsection shall be placed within the department's Relocation and Construction Trust Fund.

(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. In the instance where an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.

(d) There is hereby created in the Department of Agriculture and Consumer Services the Relocation and Construction Trust Fund. The trust fund is to be used for the sole purpose of effectuating the orderly relocation of the forestry fire towers and work centers.

(14) Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(15) Pursuant to s. 944.10, the Department of Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the Board of Trustees of the Internal Improvement Trust Fund. The provisions of paragraphs (6)(b), (c), and (d) and (7)(b), (c), and (d) apply to all appraisals, offers, and counteroffers of the Department of Corrections for state correctional facility sites.

(16) Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands including the cattle-dipping vat.

(17) Pursuant to s. 985.41, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the Board of Trustees of the Internal Improvement Trust Fund. The provisions of paragraphs (6)(b), (c), and (d) and (7)(b), (c), and (d) apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

**History.**--s. 9, ch. 79-255; s. 7, ch. 80-356; s. 166, ch. 81-259; s. 2, ch. 82-152; s. 2, ch. 83-114; s. 14, ch. 84-330; s. 57, ch. 85-80; s. 1, ch. 85-84; s. 12, ch. 86-163; s. 65, ch. 86-186; s. 1, ch. 87-307; s. 1, ch. 87-319; s. 7, ch. 88-168; s. 2, ch. 88-387; s. 1, ch. 89-117; s. 9, ch. 89-174; s. 2, ch. 89-276; s. 9, ch. 90-217; s. 1, ch. 90-234; s. 5, ch. 91-56; s. 3, ch. 92-288; s. 28, ch. 94-218; s. 2, ch. 94-240; s. 3, ch. 94-273; s. 66, ch. 94-356; s. 842, ch. 95-148; s. 2, ch. 95-349; s. 14, ch. 96-398; s. 109, ch. 96-406; s. 14, ch. 96-420; s. 25, ch. 98-280; s. 9, ch. 99-4; s. 32, ch. 99-13; s. 10, ch. 2000-308; s. 87, ch. 2001-266; s. 272, ch. 2003-261; s. 1, ch. 2003-394; s. 59, ch. 2003-399.

**253.027 Emergency archaeological property acquisition.**--

(1) SHORT TITLE.--This section may be cited as the "Emergency Archaeological Property Acquisition Act of 1988."

(2) LEGISLATIVE INTENT.--It is the intent of the Legislature that a program be established to protect archaeological properties of major statewide significance from destruction as a result of imminent development, vandalism, or natural events. Since these resources are often discovered during excavation as part of construction activities or after storm events, little time may be available for using other, often time-consuming, property acquisition methods. It is, therefore, the further intent of the Legislature to create a rapid method of acquisition for a limited number of specifically designated properties, which method may bypass previously accepted methods of state land acquisition. It is also the intent of the Legislature that lands no longer needed for the purposes expressed in this section be sold and funds returned to their original source for use in other programs.

(3) DEFINITION.--"Archaeological property of major statewide significance" means lands that contain unique prehistoric or historic artifacts, relics, or structures of archaeological value that are:

(a) Not merely of local or regional significance, but of importance to the state as a whole.

(b) Outstanding representations of a particular culture, historic event, or epoch.

(4) EMERGENCY ARCHAEOLOGICAL ACQUISITION.--The sum of $2 million shall be reserved annually within the Florida Forever Trust Fund for the purpose of emergency archaeological acquisition. Any portion of that amount not spent or obligated by the end of the third quarter of the fiscal year may be used for approved acquisitions pursuant to s. 259.105(3)(b).

(5) ACCOUNT EXPENDITURES.--

(a) No moneys shall be spent for the acquisition of any property, including title works, appraisal fees, and survey costs, unless:

1. The property is an archaeological property of major statewide significance.

2. The structures, artifacts, or relics, or their historic significance, will be irretrievably lost if the state cannot acquire the property.

3. The site is presently on an acquisition list for Conservation and Recreation Lands or for Florida Forever lands, or complies with the criteria for inclusion on any such list but has yet to be included on the list.

4. No other source of immediate funding is available to purchase or otherwise protect the property.

5. The site is not otherwise protected by local, state, or federal laws.

6. The acquisition is not inconsistent with the state comprehensive plan and the state land acquisition program.

(b) No moneys shall be spent from the account for excavation or restoration of the properties acquired. Funds may be spent for preliminary surveys to determine if the sites meet the criteria of this section. An amount not to exceed $100,000 may also be spent from the account to inventory and evaluate archaeological and historic resources on properties purchased, or proposed for purchase, pursuant to s. 259.032.

(6) INITIATION OF PURCHASE.--The Board of Trustees of the Internal Improvement Trust Fund shall consider the purchase of lands pursuant to this section upon its own motion or upon a written request by any person, corporation, organization, or agency. The request shall contain the following information:

(a) The name, address, and phone number of the person making the request.

(b) A legal description of the property, or if one is not readily available, a physical description sufficient to identify its general location.

(c) The name and address of the owner if it is different from the requester.

(d) An indication of the owner's willingness to sell.

(e) A statement showing why the property is in imminent danger of being destroyed or substantially altered and why state acquisition is necessary.

(f) A statement showing why the property is archaeological property of major statewide significance that meets the criteria for purchase within the requirements of this section.

(g) If archaeological resources are sought to be protected from the result of imminent construction activities, a list of the local, state, or federal laws that might otherwise be available to protect the resource, and a short statement of the reason the laws are not available to protect the resource.

The written request shall be filed with the Division of State Lands and the Division of Historical Resources. If the director of either division or the director's designee finds that the request substantially complies with the requirements of this section, it shall be placed on the next Board of Trustees of the Internal Improvement Trust Fund agenda following receipt without the need for notice; provided, however, that each Cabinet officer shall have received copies of the request at least 24 hours before the meeting. Should the Board of Trustees of the Internal Improvement Trust Fund agree to consider the request, it shall approve a plan for future actions that may lead to acquisition of the property as soon as possible thereafter.

(7) ACQUISITION OF PROPERTY.--Property may not be acquired under this section until the disposition or settlement of any litigation involving such property or involving the use of or construction on such property or on adjacent property. Title to property acquired pursuant to this section shall be held by the Board of Trustees of the Internal Improvement Trust Fund and managed pursuant to the provisions of s. 259.032.

(8) WAIVER OF APPRAISALS OR SURVEYS.--The Board of Trustees of the Internal Improvement Trust Fund may waive or limit any appraisal or survey requirements in s. 259.041, if necessary to effectuate the purposes of this section. Fee simple title is not required to be conveyed if some lesser interest will allow the preservation of the archaeological resource. Properties purchased pursuant to this section shall be considered archaeologically unique or significant properties and may be purchased under the provisions of s. 253.025(7).

(9) SEVERABILITY.--If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

(10) LIBERAL CONSTRUCTION.--It is intended that the provisions of this section shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this section, and when strict construction would result in the defeat of the accomplishment of any part of the work authorized by this section and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

**History.**--s. 1, ch. 88-274; s. 1, ch. 91-221; s. 14, ch. 94-240; s. 843, ch. 95-148; s. 8, ch. 99-247.

**253.03 Board of trustees to administer state lands; lands enumerated.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund of the state is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards, or commissions, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas and lands required for disposal of materials, or borrow pits; any land, title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act; and any lands, including the Camp Blanding Military Reservation, which have been conveyed to the state for military purposes only, and which are subject to reversion if conveyed by the original grantee or if the conveyance to the Board of Trustees of the Internal Improvement Trust Fund under this act would work a reversion from any other cause, or where any conveyance of lands held by a state agency which are encumbered by or subject to liens, trust agreements, or any form of contract which encumbers state lands for the repayment of funded debt. Lands vested in the Board of Trustees of the Internal Improvement Trust Fund shall be deemed to be:

(a) All swamp and overflowed lands held by the state or which may hereafter inure to the state;

(b) All lands owned by the state by right of its sovereignty;

(c) All internal improvement lands proper;

(d) All tidal lands;

(e) All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;

(f) All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way;

(g) All lands which have accrued, or which may hereafter accrue, to the state from any source whatsoever, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.

(2) It is the intent of the Legislature that the Board of Trustees of the Internal Improvement Trust Fund continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The Board of Trustees of the Internal Improvement Trust Fund is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments, to be charged agencies that are leasing land from it. This annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.

(3) The provisions of s. 270.11, requiring the board of trustees to reserve unto itself certain oil and mineral interests in all deeds of conveyances executed by the board of trustees, shall not have application to any lands that inure to the board of trustees from other state agencies, departments, boards, or commissions under the terms and provisions of this act.

(4) It is the intent of the Legislature that, when title to any lands is in the state, with no specific agency authorized by the Legislature to convey or otherwise dispose of such lands, the Board of Trustees of the Internal Improvement Trust Fund be vested with such title and hereafter be authorized to exercise over such lands such authority as may be provided by law.

(5) It is the specific intent of the Legislature that this act repeal any provision of state law which may require the Board of Trustees of the Internal Improvement Trust Fund to pay taxes or assessments of any kind to any state or local public agency on lands which are transferred or conveyed to the Board of Trustees of the Internal Improvement Trust Fund under the terms of this act and which at the time of the passage of this act are entitled to tax-exempt status under the constitution or laws of the state.

(6) Commencing September 1, 1967, all land held in the name of the state or any of its boards, departments, agencies, or commissions shall be deemed to be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the state. By October 1, 1967, any board, commission, department, or agency holding title to any state lands used for public purpose shall execute all instruments necessary to transfer such title to the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the state, except lands which reverted to the state under the provisions of chapter 18296, Laws of Florida, 1937, commonly known and referred to as the "Murphy Act."

(7)(a) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to administer all state-owned lands and shall be responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use. The Board of Trustees of the Internal Improvement Trust Fund has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act.

(b) With respect to administering, controlling, and managing sovereignty submerged lands, the Board of Trustees of the Internal Improvement Trust Fund also may adopt rules governing all uses of sovereignty submerged lands by vessels, floating homes, or any other watercraft, which shall be limited to regulations for anchoring, mooring, or otherwise attaching to the bottom; the establishment of anchorages; and the discharge of sewage, pumpout requirements, and facilities associated with anchorages. The regulations must not interfere with commerce or the transitory operation of vessels through navigable water, but shall control the use of sovereignty submerged lands as a place of business or residence.

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the State of Florida and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to rule 18-21.00405, Florida Administrative Code, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee shall be allowed to reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a structure so listed falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and either repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(d) By January 1, 2001, the owners of habitable structures built on or before May 1, 1999, located in conservation areas 2 or 3, on district or state-owned lands, the existence or use which will not impede the restoration of the Everglades, whether pursuant to a submerged lease or not, must provide written notification to the South Florida Water Management District of their existence and location, including an identification of the footprint of the structures. This notification will grant the leaseholders an automatic 20-year lease at a reasonable fee established by the district, or the Department of Environmental Protection, as appropriate, to expire on January 1, 2020. The district or Department of Environmental Protection, as appropriate, may impose reasonable conditions consistent with existing laws and rules. If the structures are located on privately owned lands, the landowners must provide the same notification required for a 20-year permit. If the structures are located on state-owned lands, the South Florida Water Management District shall submit this notification to the Department of Environmental Protection on the owner's behalf. At the expiration of this 20-year lease or permit, the South Florida Water Management District or the Department of Environmental Protection, as appropriate, shall have the right to require that the leaseholder remove the structures if the district determines that the structures or their use are causing harm to the water or land resources of the district, or to renew the lease agreement. The structure of any owner who does not provide notification to the South Florida Water Management District as required under this subsection, shall be considered illegal and subject to immediate removal. Any structure built in any water conservation area after May 1, 1999, without necessary permits and leases from the South Florida Water Management District, the Department of Environmental Protection, or other local government, as appropriate, shall be considered illegal and subject to removal.

(e) Failure to comply with the conditions contained in any permit or lease agreement as described in paragraph (d) makes the structure illegal and subject to removal. Any structure built in any water conservation area on or after July 1, 2000, is also illegal and subject to immediate removal.

(8)(a) The Board of Trustees of the Internal Improvement Trust Fund shall prepare, using tax roll data provided by the Department of Revenue, an annual inventory of all publicly owned

lands within the state. Such inventory shall include all lands owned by any unit of state government or local government; by the Federal Government, to the greatest extent possible; and by any other public entity. The board shall submit a summary report of the inventory and a list of major discrepancies between the inventory and the tax roll data to the President of the Senate and the Speaker of the House of Representatives on or before March 1 of each year.

(b) In addition to any other parcel data available, the inventory shall include a legal description or proper reference thereto, the number of acres or square feet within the boundaries, and the assessed value of all publicly owned uplands. To the greatest extent practicable, the legal description or proper reference thereto and the number of acres or square feet shall be determined for all publicly owned submerged lands. For the purposes of this subsection, the term "submerged lands" means publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state. By October 31 of each year, the Department of Revenue shall furnish, in machine-readable form, annual, current tax roll data for public lands to the board to be used in compiling the inventory.

(c) By December 31 of each year, the board shall prepare and provide to each state agency and local government and any other public entity which holds title to real property, including any water management district, drainage district, navigation district, or special taxing district, a list of the real property owned by such entity, required to be listed on county assessment rolls, using tax roll data provided by the Department of Revenue. By March 31 of the following year, each such entity shall review its list and inform the appropriate property appraiser of any corrections to the list. The Department of Revenue shall provide for entering such corrections on the appropriate county tax roll.

(d) Whenever real property is listed on the real property assessment rolls of the respective counties in the name of the State of Florida or any of its agencies, the listing shall not be changed in the absence of a recorded deed executed by the State of Florida or the state agency in whose name the property is listed. If, in preparing the assessment rolls, the several property appraisers within the state become aware of the existence of a recorded deed not executed by the state and purporting to convey real property listed on the assessment rolls as state-owned, the property appraiser shall immediately forward a copy of the recorded deed to the state agency in whose name the property is listed.

(9) The Board of Trustees of the Internal Improvement Trust Fund is responsible for the acquisition and disposal of federal lands and buildings which are declared surplus or excess. The Board of Trustees of the Internal Improvement Trust Fund shall establish regular procedures to assure that state and local agencies are made aware of the availability of federal lands and buildings.

(10) The Board of Trustees of the Internal Improvement Trust Fund and the state through any of its agencies are hereby prohibited from levying any charge, by whatever name known, or attaching any lien, on any and all materials dredged from state sovereignty tidal lands or submerged bottom lands or on the lands constituting the spoil areas on which such dredged materials are placed, except as otherwise provided for in this subsection, when such materials are dredged by or on behalf of the United States or the local sponsors of active federal navigation projects in the pursuance of the improvement, construction, maintenance, and operation of such projects or by a public body authorized to operate a public port facility (all such parties referred to herein shall hereafter be called "public body") in pursuance of the improvement, construction, maintenance, and operation of such facility, including any public transfer and terminal facilities, which actions are hereby declared to be for a public purpose. The term "local sponsor" means the local agency designated pursuant to an act of Congress to assume a portion of the navigation project costs and duties. Active federal navigation projects

are those congressionally approved projects which are being performed by the United States Army Corps of Engineers or maintained by the local sponsors.

(a) Except for beach nourishment seaward of existing lines of vegetation on privately owned or publicly owned uplands fronting on the waters of the Atlantic Ocean or Gulf of Mexico and authorized pursuant to the provisions of part I of chapter 161, no materials dredged from state sovereignty tidal or submerged bottom lands by a public body shall be deposited on private lands until:

1. The United States Army Corps of Engineers or the local sponsor has first certified that no public lands are available within a reasonable distance of the dredging site; and

2. The public body has published notice of its intention to utilize certain private lands for the deposit of materials, in a newspaper published and having general circulation in the appropriate county at least three times within a 60-day period prior to the date of the scheduled deposit of any such material, and therein advised the general public of the opportunity to bid on the purchase of such materials for deposit on the purchaser's designated site, provided any such deposit shall be at no increased cost to the public body. Such notice shall state the terms, location, and conditions for receipt of bids and shall state that the public body shall accept the highest responsible bid. All bids shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund. All moneys obtained from such purchases of materials shall be remitted forthwith to the Board of Trustees of the Internal Improvement Trust Fund. Compliance with this subsection shall vest, without any obligation, full title to the materials in the owner of the land where deposited.

(b) When public lands on which are deposited materials dredged from state sovereignty tidal or submerged bottom lands by the public body are sold or leased for a period in excess of 20 years, which term includes any options to a private party, 50 percent of any remuneration received shall forthwith be remitted to the Board of Trustees of the Internal Improvement Trust Fund and the balance shall be retained by the public body owning the land.

(c) Any materials which have been dredged from state sovereignty tidal or submerged bottom lands by the public body and deposited on public lands may be removed by the public body to private lands or interests only after due advertisement for bids, which means a notice published at least three times within a 60-day period in a newspaper published and having general circulation in the appropriate county. The purchase price submitted by the highest responsible bidder shall be remitted to the Board of Trustees of the Internal Improvement Trust Fund. If no bid is received, the public body shall have the right to fully convey title to, and dispose of, any such material on its land, with no requirement of payment to the Board of Trustees of the Internal Improvement Trust Fund.

(d) Notwithstanding the provisions of paragraphs (a)-(c), the Board of Trustees of the Internal Improvement Trust Fund shall allow private or public entities to remove, at no charge and with no public notice requirements, spoil site material dredged from state sovereignty tidal lands or submerged bottom lands and to place the material upon public or private lands when:

1. Such removal and placement is done pursuant to a spoil site rejuvenation plan the board of trustees approves; and

2. The board of trustees finds that the removal and placement is in the public interest and would rejuvenate a site for continued spoil disposal. The board of trustees may give priority to requests for spoil site material, which would result in the environmental restoration or enhancement of the new placement site.

(e) Nothing in this subsection shall affect any preexisting contract or permit to engage in dredging of materials from state sovereignty tidal and submerged bottom lands, nor shall it be construed to void any preexisting agreement or lien against the lands upon which dredged materials have been placed or to have any retroactive effect.

(11) The Board of Trustees of the Internal Improvement Trust Fund may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts, leases, releases, or sales of any interest in lands or any applications therefore and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district.

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve, protect, and sell all real property forfeited to the state pursuant to ss. 895.01-895.09 or acquired by the state pursuant to s. 607.0505 or [1]s. 620.192. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Internal Improvement Trust Fund may be used to satisfy any such encumbrances. If forfeited property receipts are not sufficient to satisfy encumbrances on the property and expenses permitted under this section, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances and expenses. All property acquired by the board pursuant to s. 607.0505, [1]s. 620.192, or ss. 895.01-895.09 shall be sold as soon as commercially feasible unless the Attorney General recommends and the board determines that retention of the property in public ownership would effectuate one or more of the following policies of statewide significance: protection or enhancement of floodplains, marshes, estuaries, lakes, rivers, wilderness areas, wildlife areas, wildlife habitat, or other environmentally sensitive natural areas or ecosystems; or preservation of significant archaeological or historical sites identified by the Secretary of State. In such event the property shall remain in the ownership of the board, to be controlled, managed, and disposed of in accordance with this chapter, and the Internal Improvement Trust Fund shall be reimbursed from the Land Acquisition Trust Fund, or other appropriate fund designated by the board, for any funds expended from the Internal Improvement Trust Fund pursuant to this subsection in regard to such property. Upon the recommendation of the Attorney General, the board may reimburse the investigative agency for its investigative expenses, costs, and attorneys' fees, and may reimburse law enforcement agencies for actual expenses incurred in conducting investigations leading to the forfeiture of such property from funds deposited in the Internal Improvement Trust Fund of the Department of Environmental Protection. The proceeds of the sale of property acquired under s. 607.0505, [1]s. 620.192, or ss. 895.01-895.09 shall be distributed as follows:

(a) After satisfaction of any valid claims arising under the provisions of s. 895.09(1)(a) or (b), any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, sale, and real estate sales services and any interest earnings lost to the Land Acquisition Trust Fund as of a date certified by the Department of Environmental Protection shall be replaced first in the Land Acquisition Trust Fund, if those funds were used, and then in the Internal Improvement Trust Fund; and

(b) The remainder shall be distributed as set forth in s. 895.09.

(13) For applications not reviewed pursuant to s. 373.427, the department must review applications for the use of state-owned submerged lands, including a purchase, lease, easement, disclaimer, or other consent to use such lands and must request submittal of all additional information necessary to process the application. Within 30 days after receipt of the additional information, the department must review the information submitted and may

request only that information needed to clarify the additional information, to process the appropriate form of approval indicated by the additional information, or to answer those questions raised by, or directly related to, the additional information. An application for the authority to use state-owned submerged land must be approved, denied, or submitted to the board of trustees for approval or denial within 90 days after receipt of the original application or the last item of timely requested additional information. This time is tolled by any notice requirements of s. 253.115 or any hearing held under ss. 120.569 and 120.57. If the review of the application is not completed within the 90-day period, the department must report quarterly to the board the reasons for the failure to complete the report and provide an estimated date by which the application will be approved or denied. Failure to comply with these time periods shall not result in approval by default.

(14) Where necessary to establish a price for the sale or other disposition of state lands, including leases or easements, the Division of State Lands may utilize appropriate appraiser selection and contracting procedures established under s. 253.025. The board of trustees may adopt rules to implement this subsection.

(15) The Board of Trustees of the Internal Improvement Trust Fund shall encourage the use of sovereign submerged lands for water-dependent uses and public access.

(16) The Board of Trustees of the Internal Improvement Trust Fund, and the state through its agencies, may not control, regulate, permit, or charge for any severed materials which are removed from the area adjacent to an intake or discharge structure pursuant to an exemption authorized in s. 403.813(2)(f) and (r).

**History.**--s. 1, ch. 15642, 1931; CGL 1936 Supp. 1446(13); s. 2, ch. 61-119; ss. 2, 3, ch. 67-269; s. 2, ch. 67-2236; ss. 27, 35, ch. 69-106; s. 8, ch. 71-286; s. 1, ch. 75-76; s. 1, ch. 78-251; s. 10, ch. 79-255; s. 15, ch. 80-356; s. 3, ch. 82-144; s. 2, ch. 83-223; s. 10, ch. 84-79; s. 4, ch. 84-249; s. 58, ch. 85-80; s. 1, ch. 85-306; s. 2, ch. 87-307; s. 8, ch. 88-168; s. 3, ch. 88-264; s. 1, ch. 88-357; s. 5, ch. 89-102; s. 7, ch. 89-174; s. 16, ch. 89-175; s. 131, ch. 90-179; s. 1, ch. 91-175; s. 2, ch. 92-109; ss. 67, 490, ch. 94-356; s. 57, ch. 96-410; s. 1, ch. 97-22; s. 36, ch. 97-160; s. 2, ch. 97-164; s. 44, ch. 98-200; s. 9, ch. 99-247; s. 4, ch. 2000-170; s. 22, ch. 2004-234; s. 4, ch. 2005-157.

[1]**Note.**--Repealed by s. 25, ch. 2005-267.

**253.031 Land office; custody of documents concerning land; moneys; plats.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund, hereinafter called the "board," shall establish and maintain a public land office to be located at the seat of government of the state, in which office shall be deposited and preserved all records, surveys, plats, maps, field notes, and patents, and all other evidence touching the title and description of the public domain, and all lands granted by Congress to this state, or which may hereafter be granted, for whatever purpose the same may be given.

(2) The Board of Trustees of the Internal Improvement Trust Fund shall have custody of all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.

(3) The board shall draw all deeds and conveyances and deliver the same for all sales and transfers, and other disposition of the public domain, that may from time to time be ordered and made by authority of law, and keep a true and faithful record of the same. The board shall keep accounts of the several grants or donations for fixing the seat of government, for

seminaries of learning, for common schools, for internal improvements, or for any other purpose, in separate books, accounts, and reports, so that the rights and interests of one shall not be blended or mixed with the rights and interests of another; and each class of land shall pay the expenses of locating the same.

(4) The board shall, in behalf of this state, receive from the Treasury of the United States the 5 percent on sales of the public lands, or any other sums accruing from the general government to the seminary, common school, internal improvement, or land acquisition funds; and shall pay the same into the treasury of this state, or, if they shall belong to a fund, to the treasurer of such fund keeping the same separate and distinct under their respective proper heads. The board shall hold all needful correspondence with the several land offices of the United States in this state, or with the general land office at Washington, and shall attend the public land sales in this state, and visit the said land offices whenever, in its opinion, the interest of the state shall require it, and do and perform all things needful and proper to advance and promote the interests of the same.

(5) The board shall make selections of and secure all swamp and overflowed lands and any other lands inuring to the state under the several acts of Congress providing therefore, and shall provide plats or maps of all lands selected and secured, and append thereto an accurate description of the quality, situation, and location of the same, and whatever else may affect the value of each tract or body of land selected and secured, taking care to keep in separate books, and maps or plats, the lands belonging to each separate fund, which books and maps and plats, with the description thereof, shall be kept and preserved in the office of the board.

(6) Upon the discontinuance by the federal authorities of the office of surveyor-general for the state, the board shall receive all of the field notes, surveys, maps, plats, papers, and records heretofore kept in the office of said surveyor-general as part of the public records of its office, and shall at all times allow any duly accredited authority of the United States full and free access to any and all of such field notes, surveys, maps, plats, papers, and records; and may make and furnish under their hands and seal certified copies of any or all of the same to any person making application therefore.

(7) The board shall receive all of the tract books, plats, and such records and papers heretofore kept in the United States Land Office at Gainesville, Alachua County, as may be surrendered by the Secretary of the Interior; and the board shall carefully and safely keep and preserve all of said tract books, plats, records, and papers as part of the public records of its office, and at any time allow any duly accredited authority of the United States, full and free access to any and all of such tract books, plats, records, and papers, and shall furnish any duly accredited authority of the United States with copies of any such records without charge.

(8) The board shall keep a suitable seal of office. An impression of this seal shall be made upon the deeds conveying lands sold by the state, by the Board of Education, and by the Board of Trustees of the Internal Improvement Trust Fund of this state; and all such deeds shall be personally signed by the officers or trustees making the same and impressed with said seal and shall be operative and valid without witnesses to the execution thereof; and the impression of such seal on any such deeds shall entitle the same to record and to be received in evidence in all courts.

(9) The fees of the board in the following matters shall be as follows: certification under seal of copies of maps or records in the office will be performed for a fee of $1.50 minimum. The charges for copying, making record searches, and compiling reports and statistical data shall be commensurate with the work involved and cost of material used.

**History.**--s. 1, ch. 63-294; ss. 27, 35, ch. 69-106; s. 1, ch. 74-18; s. 9, ch. 79-65; s. 3, ch. 82-185.

**253.0325 Modernization of state lands records.**--

(1) The Department of Environmental Protection shall initiate an ongoing computerized information systems program to modernize its state lands records and documents that relate to lands to which title is vested in the Board of Trustees of the Internal Improvement Trust Fund. The program shall include, at a minimum:

(a) A document management component to automate the storage and retrieval of information contained in state lands records.

(b) A land records management component to organize the records by key elements present in the data.

(c) An evaluation component which includes the collection of resource and environmental data.

(d) A mapping component to generate and store maps of state-owned parcels using data from the land records management and evaluation components.

(2) At all stages of its records modernization program, the department shall seek to ensure information systems compatibility within the department and with other state, local, and regional governmental agencies. The department also shall seek to promote standardization in the collection of information regarding state-owned lands by federal, state, regional, and local agencies.

(3) The information collected and stored as a result of the department's modernization of state lands records shall not be considered a final or complete accounting of lands which the state owns or to which the state may claim ownership.

**History.**--s. 6, ch. 90-217; s. 68, ch. 94-356.

**253.033 Inter-American Center property; transfer to board; continued use for government purposes.**--

(1) All real and personal property presently owned by the Inter-American Center Authority, pursuant to former s. 554.072 or otherwise, and all existing liabilities of said authority are hereby transferred to the Board of Trustees of the Internal Improvement Trust Fund. However, the liability to the Department of Transportation for road and bridge work is hereby waived and satisfied. Except as provided in s. 4, chapter 75-131, Laws of Florida, all obligations in connection with contracts and bond issues of the authority shall be assumed and performed by the trustees as provided by law or contract. No action shall be taken as a result of this act that will impair the obligations of any such contract or outstanding bonds.

(2) It is hereby recognized that certain governmental entities have expended substantial public funds in acquiring, planning for, or constructing public facilities for the purpose of carrying out or undertaking governmental functions on property formerly under the jurisdiction of the authority. All property owned or controlled by any governmental entity shall be exempt from the Florida Building Code and any local amendments thereto and from local zoning regulations which might otherwise be applicable in the absence of this section in carrying out or undertaking any such governmental function and purpose.

(3)(a) Except as provided in this subsection, in no event shall any of the lands known as "the Graves tract," including, without limitation, the land previously transferred to the City of Miami and Dade County by the Inter-American Center Authority and the lands transferred pursuant to this act, be used for other than public purposes. However, the portion of "the Graves tract" owned by the City of North Miami on the effective date of this act or subsequently acquired by the city shall not be subject to such public purpose use restriction and may be used for any purpose in accordance with local building and zoning regulations.

(b)1. Notwithstanding any provision of paragraph (a) or any other law to the contrary, the Board of Trustees of the Internal Improvement Trust Fund shall convey and transfer to the City of North Miami as soon as feasible that portion of "the Graves tract" described in this paragraph as set forth with particularity in s. 1, chapter 85-201, Laws of Florida, along with that certain additional portion of "the Graves tract" described as follows: Commencing at the center of Section 21, Township 52S., Range 42E., Dade County, Florida, run South 87°-38'-50" West, 180.0 feet to the point of beginning of a parcel of land described as follows: run South 87°-38'-50" West 804.17 feet to the east right-of-way line of State Road #5, thence run South 15°-20'-05" West for a distance of 206.85 feet, thence run North 87°-45'-31" East for a distance of 751.20 feet, thence run North 27°-50'-00" East for a distance of 229.47 feet to the point of beginning, such parcel containing 3.89 acres more or less, except for that certain portion thereof which the Department of Transportation has reserved for right-of-way for transportation facilities.

2. Upon the recordation in the Official Records of Dade County, Florida, by the Department of Transportation of a right-of-way map for State Road #5, which reserves a portion of the lands described in subparagraph 1., which said portion reserved is within, but smaller than, the portion reserved from the conveyance required by subparagraph 1. as accomplished by instrument recorded in page 30 of Official Record Book 14405 of the Official Records of Dade County, Florida, as Deed No. 28289, pursuant to chapter 89-246, Laws of Florida, the Board of Trustees of the Internal Improvement Trust Fund shall convey and transfer to the City of North Miami as soon as feasible that additional portion of "the Graves tract" which consists of: Parcel No. 1, 'Interama Tract' Right-of-Way Reservation for State Road #5, together with Parcel No. 2, 'Interama Tract' Right-of-Way Reservation for State Road #5 as described in that certain instrument of conveyance referred to in this subparagraph as Deed No. 28289, less and except that certain portion of said Parcels No. 1 and No. 2 which is, after the effective date of this act, reserved for right-of-way for transportation facilities in a right-of-way map or like instrument hereafter filed and recorded by the Department of Transportation in the official records, so that the City of North Miami obtains title to those additional lands which are not necessary to be reserved for right-of-way for transportation facilities.

3. The City of North Miami shall not be required to pay any monetary consideration for the conveyances of land specified in this paragraph, since these conveyances are in mitigation of the loss sustained by the city upon dissolution of the Inter-American Center Authority pursuant to s. 1 of chapter 75-131, Laws of Florida.

(4) The Board of Trustees of the Internal Improvement Trust Fund may lease to Dade County approximately 300 acres of land, and approximately 90 acres of abutting lagoon and waterways, designated as the Primary Development Area, and may also transfer to Dade County all or any part of the plans, drawings, maps, etc., of the Inter-American Center Authority existing at the date of transfer, provided Dade County:

(a) Assumes responsibilities of the following agreements:

1. That certain agreement entered into on June 12, 1972, between the City of Miami and Inter-American Center Authority whereby the authority agreed to repurchase, with revenues

derived from the net operating revenue of the project developed on the leased lands after expenses and debt service requirements, the approximately 93 acres of lands previously deeded to the City of Miami as security for repayment of the $8,500,000 owed by the authority to the City of Miami. Title to the land repurchased pursuant to the provisions of this subsection shall be conveyed to the State of Florida.

2. Those certain rights granted to the City of North Miami pursuant to the provisions of former s. 554.29(1)(a) and former s. 554.30 obligating the authority to issue a revenue bond to the City of North Miami, containing provisions to be determined by Dade County, to be repaid from all ad valorem taxes, occupational license fees, franchise taxes, utility taxes, and cigarette taxes which would have accrued to the authority or the City of North Miami by nature of property owned by the authority having been in the City of North Miami and from the excess revenue after operating expenses, development cost and debt service requirements, of the project developed on the leased lands.

(b) Develops a plan for the use of the land that meets the approval of the Board of Trustees of the Internal Improvement Trust Fund or that meets the following purposes heretofore authorized:

1. To provide a permanent international center which will serve as a meeting ground for the governments and industries of the Western Hemisphere and of other areas of the world.

2. To facilitate broad and continuous exchanges of ideas, persons, and products through cultural, educational, and other exchanges.

3. By appropriate means, to promote mutual understanding between the peoples of the Western Hemisphere and to strengthen the ties which unite the United States with other nations of the free world.

Any property leased under this subsection shall not be leased for less than fair market value.

**History.**--ss. 2, 3, 5, 7, 8, ch. 75-131; s. 1, ch. 85-201; s. 1, ch. 87-293; s. 1, ch. 89-246; s. 1, ch. 92-114; s. 9, ch. 97-100; s. 13, ch. 2000-141; s. 34, ch. 2001-186; s. 3, ch. 2001-372.

**253.034 State-owned lands; uses.**--

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands. The council created in s. 259.035 shall recommend rules to the board of trustees, and the board shall adopt rules necessary to carry out the purposes of this section.

(2) As used in this section, the following phrases have the following meanings:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, conservation of fish and wildlife, forage, archaeological and historic sites, habitat and other biological resources, or water resources so that they are utilized in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources. Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas that require special protection or have special management needs. Such buffers shall not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one management entity, which may include private sector land managers. In any case, lands identified as multiple-use lands in the land management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using entity shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing entity.

(c) "Conservation lands" means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation shall not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or state community college campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources. However, lands acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.

Lands acquired by the state as a gift, through donation, or by any other conveyance for which no consideration was paid, and which are not managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation under a land management plan approved by the board of trustees are not conservation lands.

(3) In recognition that recreational trails purchased with rails-to-trails funds pursuant to s. 259.101(3)(g) or s. 259.105(3)(h) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that when the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent

feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to s. 259.101(3)(g) or s. 259.105(3)(h). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(4) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the Board of Trustees of the Internal Improvement Trust Fund if the improvement is a transportation facility. An entity managing or leasing state-owned lands from the board may not sublease such lands without prior review by the division and, for conservation lands, by the Acquisition and Restoration Council created in s. 259.035. All management agreements, leases, or other instruments authorizing the use of lands owned by the board shall be reviewed for approval by the board or its designee. The council is not required to review subleases of parcels which are less than 160 acres in size.

(5) Each manager of conservation lands shall submit to the Division of State Lands a land management plan at least every 10 years in a form and manner prescribed by rule by the board and in accordance with the provisions of s. 259.032. Each manager of conservation lands shall also update a land management plan whenever the manager proposes to add new facilities or make substantive land use or management changes that were not addressed in the approved plan, or within 1 year of the addition of significant new lands. Each manager of nonconservation lands shall submit to the Division of State Lands a land use plan at least every 10 years in a form and manner prescribed by rule by the board. The division shall review each plan for compliance with the requirements of this subsection and the requirements of the rules established by the board pursuant to this section. All land use plans, whether for single-use or multiple-use properties, shall include an analysis of the property to determine if any significant natural or cultural resources are located on the property. Such resources include archaeological and historic sites, state and federally listed plant and animal species, and imperiled natural communities and unique natural features. If such resources occur on the property, the manager shall consult with the Division of State Lands and other appropriate agencies to develop management strategies to protect such resources. Land use plans shall also provide for the control of invasive nonnative plants and conservation of soil and water resources, including a description of how the manager plans to control and prevent soil erosion and soil or water contamination. Land use plans submitted by a manager shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land management plan. Plans for managed areas larger than 1,000 acres shall contain an analysis of the multiple-use potential of the property, which analysis shall include the potential of the property to generate revenues to enhance the management of the property. Additionally, the plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. In those cases where a newly acquired property has a valid conservation plan that was developed by a soil and conservation district, such plan shall be used to guide management of the property until a formal land use plan is completed.

(a) The Division of State Lands shall make available to the public a copy of each land management plan for parcels that exceed 160 acres in size. The council shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules established by the board pursuant to this section. The council shall also consider the propriety of the recommendations of the managing entity with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing entity, and the possibility of disposal of the property by the board. After its review, the council shall submit the plan, along with its recommendations and comments, to the board. The council shall

specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land management plan submitted by each entity and the recommendations of the council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands that is not in accordance with an approved land management plan is subject to termination by the board.

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.

(a) For the purposes of this subsection, all lands acquired by the state prior to July 1, 1999, using proceeds from the Preservation 2000 bonds, the Conservation and Recreation Lands Trust Fund, the Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board, which lands are identified as core parcels or within original project boundaries, shall be deemed to have been acquired for conservation purposes.

(b) For any lands purchased by the state on or after July 1, 1999, a determination shall be made by the board prior to acquisition as to those parcels that shall be designated as having been acquired for conservation purposes. No lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those specifically managed for conservation or recreation purposes, or the State University System or the Florida Community College System shall be designated as having been purchased for conservation purposes.

(c) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each manager shall evaluate and indicate to the board those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the council shall review and shall recommend to the board whether such lands should be retained in public ownership or disposed of by the board. For nonconservation lands, the division shall review such lands and shall recommend to the board whether such lands should be retained in public ownership or disposed of by the board.

(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) shall be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.

(e) Prior to any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(f)1. In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local

government in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 30 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; and governmental, judicial, or recreational centers. County or local government requests for surplus lands shall be expedited throughout the surplusing process. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, then any surplusing determination involving other governmental agencies shall be made upon the board deciding the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.

2. Notwithstanding subparagraph 1., any surplus lands that were acquired by the state prior to 1958 by a gift or other conveyance for no consideration from a municipality, and which the department has filed by July 1, 2006, a notice of its intent to surplus, shall be first offered for reconveyance to such municipality at no cost, but for the fair market value of any building or other improvements to the land, unless otherwise provided in a deed restriction of record. This subparagraph expires July 1, 2006.

(g) The sale price of lands determined to be surplus pursuant to this subsection shall be determined by the division and shall take into consideration an appraisal of the property, or, when the estimated value of the land is less than $100,000, a comparable sales analysis or a broker's opinion of value, and the price paid by the state to originally acquire the lands.

1.a. A written valuation of land determined to be surplus pursuant to this subsection, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board. Notwithstanding the exemption provided under this subparagraph, the division may disclose appraisals, valuations, or valuation information regarding surplus land during negotiations for the sale or exchange of the land, during the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process, when the passage of time has made the conclusions of value invalid, or when negotiations or marketing efforts concerning the land are concluded.

b. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for a period of 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph shall first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.

(h) Where a unit of government acquired land by gift, donation, grant, quitclaim deed, or other such conveyance where no monetary consideration was exchanged, the price of land sold as surplus may be based on one appraisal. In the event that a single appraisal yields a value equal to or greater than $1 million, a second appraisal is required. The individual or entity requesting the surplus shall select and use appraisers from the list of approved appraisers maintained by the Division of State Lands in accordance with s. 253.025(6)(b). The individual or entity requesting the surplus is to incur all costs of the appraisals.

(i) After reviewing the recommendations of the council, the board shall determine whether lands identified for surplus are to be held for other public purposes or whether such lands are no longer needed. The board may require an agency to release its interest in such lands. For an agency that has requested the use of a property that was to be declared as surplus, said agency must have the property under lease within 6 months of the date of expiration of the notice provisions required under this subsection and s. 253.111.

(j) Requests for surplusing may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies shall have 90 days to review such requests and make recommendations. Any surplusing requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplusing pursuant to this paragraph shall not be required to be offered to local or state governments as provided in paragraph (f).

(k) Proceeds from any sale of surplus lands pursuant to this subsection shall be deposited into the fund from which such lands were acquired. However, if the fund from which the lands were originally acquired no longer exists, such proceeds shall be deposited into an appropriate account to be used for land management by the lead managing agency assigned the lands prior to the lands being declared surplus. Funds received from the sale of surplus nonconservation lands, or lands that were acquired by gift, by donation, or for no consideration, shall be deposited into the Internal Improvement Trust Fund.

(l) Notwithstanding the provisions of this subsection, no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(m) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.

(n) The board may adopt rules to implement the provisions of this section, which may include procedures for administering surplus land requests and criteria for when the division may approve requests to surplus nonconservation lands on behalf of the board.

(7) This section shall not be construed so as to affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the Board of Trustees of the Internal Improvement Trust Fund of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

(8)(a) Notwithstanding other provisions of this section, the Division of State Lands is directed to prepare a state inventory of all federal lands and all lands titled in the name of the state, a state agency, a water management district, or a local government on a county-by-county basis. To facilitate the development of the state inventory, each county shall direct the appropriate county office with authority over the information to provide the division with a county inventory of all lands identified as federal lands and lands titled in the name of the state, a state agency, a water management district, or a local government.

(b) The state inventory must distinguish between lands purchased by the state or a water management district as part of a core parcel or within original project boundaries, as those

terms are used to meet the surplus requirements of subsection (6), and lands purchased by the state, a state agency, or a water management district which are not essential or necessary for conservation purposes.

(c) In any county having a population of 75,000 or less, or a county having a population of 100,000 or less that is contiguous to a county having a population of 75,000 or less, in which more than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a water management district, or a local government, those lands titled in the name of the state or a state agency which are not essential or necessary to meet conservation purposes may, upon request of a public or private entity, be made available for purchase through the state's surplusing process. Rights-of-way for existing, proposed, or anticipated transportation facilities are exempt from the requirements of this paragraph. Priority consideration shall be given to buyers, public or private, willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll. Property acquired with matching funds from a local government shall not be made available for purchase without the consent of the local government.

(9) Land management plans required to be submitted by the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Family Services, or the Department of Education are not subject to the provisions for review by the council or its successor described in subsection (5). Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund for consideration. The Board of Trustees of the Internal Improvement Trust Fund shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land management plan is subject to termination by the board.

(10) The following additional uses of conservation lands acquired pursuant to the Florida Forever program and other state-funded conservation land purchase programs shall be authorized, upon a finding by the board of trustees, if they meet the criteria specified in paragraphs (a)-(e): water resource development projects, water supply development projects, stormwater management projects, linear facilities, and sustainable agriculture and forestry. Such additional uses are authorized where:

(a) Not inconsistent with the management plan for such lands;

(b) Compatible with the natural ecosystem and resource values of such lands;

(c) The proposed use is appropriately located on such lands and where due consideration is given to the use of other available lands;

(d) The using entity reasonably compensates the titleholder for such use based upon an appropriate measure of value; and

(e) The use is consistent with the public interest.

A decision by the board of trustees pursuant to this section shall be given a presumption of correctness. Moneys received from the use of state lands pursuant to this section shall be returned to the lead managing entity in accordance with the provisions of s. 259.032(11)(d).

(11) Lands listed as projects for acquisition may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Conservation and Recreation Lands Trust Fund and Water Management Lands Trust Fund. No more than 5 percent of funds allocated under the trust funds shall be expended for this purpose.

(12) Any lands available to governmental employees, including water management district employees, for hunting or other recreational purposes shall also be made available to the general public for such purposes.

[1](13) Notwithstanding the provisions of this section, funds from the sale of property by the Department of Highway Safety and Motor Vehicles located in Palm Beach County are authorized to be deposited into the Highway Safety Operating Trust Fund to facilitate the exchange as provided in the General Appropriations Act, provided that at the conclusion of both exchanges the values are equalized. This subsection expires July 1, 2006.

**History.**--s. 2, ch. 80-280; s. 167, ch. 81-259; s. 1, ch. 82-36; s. 3, ch. 83-223; s. 2, ch. 84-94; s. 4, ch. 84-197; s. 1, ch. 89-174; ss. 3, 4, 5, ch. 90-1; s. 5, ch. 91-429; s. 3, ch. 92-109; s. 25, ch. 94-237; s. 3, ch. 97-164; ss. 32, 38, ch. 98-46; ss. 40, 53, ch. 99-228; s. 10, ch. 99-247; s. 24, ch. 2000-152; s. 13, ch. 2000-157; s. 5, ch. 2000-170; s. 2, ch. 2001-275; s. 14, ch. 2003-6; s. 2, ch. 2003-394; s. 1, ch. 2004-35; s. 54, ch. 2004-269; s. 1, ch. 2004-296; s. 39, ch. 2005-71.

**[1]Note.**--Section 39, ch. 2005-71, amended subsection (13) "[i]n order to implement section 37 of the 2005-2006 General Appropriations Act."

**253.0341 Surplus of state-owned lands to counties or local governments.**--Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.

(1) The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request.

(2) County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation lands shall be considered by the board within 120 days of the board's receipt of the request.

**History.**--s. 3, ch. 2003-394.

**253.0345 Special events; submerged land leases.**--

(1) The trustees are authorized to issue consents of use or leases to riparian landowners and event promoters to allow the installation of temporary structures, including docks, moorings,

pilings and access walkways, on sovereign submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government owned upland property. Riparian owners of adjacent uplands who are not seeking a lease or consent of use shall be notified by certified mail of any request for such a lease or consent of use prior to approval by the trustees. The trustees shall balance the interests of any objecting riparian owners with the economic interests of the public and the state as a factor in determining if a lease or consent of use should be executed over the objection of adjacent riparian owners. This section shall not apply to structures for viewing motorboat racing, high-speed motorboat contests or high-speed displays in waters where manatees are known to frequent.

(2) Any special event provided for in subsection (1) shall be for a period not to exceed 30 days. The lease or consent of use may also contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should the promoter or riparian owner fail to do so within the time specified in the agreement.

(3) Nothing in this section shall be construed to allow any lease or consent of use that would result in harm to the natural resources of the area as a result of the structures or the activities of the special events agreed to.

**History.**--s. 1, ch. 98-339.

**253.035 Coastal anchorage areas.**--On or after January 1, 1993, if an anchorage area at a deepwater port has been formally designated by the United States Coast Guard, it shall be unlawful for commercial vessels waiting to enter the port to anchor outside the anchorage area.

**History.**--s. 2, ch. 90-54.

**253.036 Forest management.**--All land management plans described in s. 253.034(5) which are prepared for parcels larger than 1,000 acres shall contain an analysis of the multiple-use potential of the parcel, which analysis shall include the potential of the parcel to generate revenues to enhance the management of the parcel. The lead agency shall prepare the analysis, which shall contain a component or section prepared by a qualified professional forester which assesses the feasibility of managing timber resources on the parcel for resource conservation and revenue generation purposes through a stewardship ethic that embraces sustainable forest management practices if the lead management agency determines that the timber resource management is not in conflict with the primary management objectives of the parcel. For purposes of this section, practicing sustainable forest management means meeting the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic which integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and aesthetics. The Legislature intends that each lead management agency, whenever practicable and cost effective, use the services of the Division of Forestry of the Florida Department of Agriculture and Consumer Services or other qualified private sector professional forester in completing such feasibility assessments and implementing timber resource management. The Legislature further intends that the lead management agency develop a memorandum of agreement with the Division of Forestry to provide for full reimbursement for any services provided for the feasibility assessments or timber resource management. All additional revenues generated through multiple-use management or compatible secondary use management shall be returned to the lead agency responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the agency's jurisdiction. In addition,

such revenue shall be segregated in an agency trust fund and shall remain available to the agency in subsequent fiscal years to support land management appropriations.

**History.**--s. 1, ch. 98-332.

**253.037 Use of state-owned land for correctional facilities.**--

(1) The Department of Environmental Protection shall review, identify, and secure state-owned lands which may be used for correctional facilities subject to determination by the Department of Corrections of where sites are needed and their appropriateness for use as prisons or other correctional facilities.

(2) Notwithstanding the provisions of s. 253.025, the Board of Trustees of the Internal Improvement Trust Fund may purchase federal surplus lands for use as sites for correctional facilities, using federal land purchasing procedures, regulations, and requirements.

**History.**--s. 30, ch. 83-131; s. 69, ch. 94-356; s. 141, ch. 2001-266.

**253.04 Duty of board to protect, etc., state lands; state may join in any action brought.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund may police; protect; conserve; improve; and prevent trespass, damage, or depredation upon the lands and the products thereof, on or under the same, owned by the state as set forth in s. 253.03. The board may bring in the name of the board all suits in ejectment, suits for damage, and suits in trespass which in the judgment of the board may be necessary to the full protection and conservation of such lands, or it may take such other action or do such other things as may in its judgment be necessary for the full protection and conservation of such lands; and the state may join with the board in any action or suit, or take part in any proceeding, when it may deem necessary, in the name of this state through the Department of Legal Affairs.

(2) In lieu of seeking monetary damages pursuant to subsection (1) against any person or the agent of any person who has been found to have willfully damaged lands of the state, the ownership or boundaries of which have been established by the state, to have willfully damaged or removed products thereof in violation of state or federal law, to have knowingly refused to comply with or willfully violated the provisions of this chapter, or to have failed to comply with an order of the board to remove or alter any structure or vessel that is not in compliance with applicable rules or with conditions of authorization to locate such a structure or vessel on state-owned land, the board may impose a fine for each offense in an amount up to $10,000 to be fixed by rule and imposed and collected by the board in accordance with the provisions of chapter 120. Each day during any portion of which such violation occurs constitutes a separate offense. This subsection does not apply to any act or omission which is currently subject to litigation wherein the state or any agency of the state is a party as of October 1, 1984, or to any person who holds such lands under color of title. Nothing contained herein impairs the rights of any person to obtain a judicial determination in a court of competent jurisdiction of such person's interest in lands that are the subject of a claim or proceeding by the department under this subsection.

(3) The Department of Environmental Protection is authorized to develop by rule a schedule for the assessment of civil penalties for damage to coral reefs in state waters. The highest penalty shall not exceed $1,000 per square meter of reef area damaged. The schedule may include additional penalties for aggravating circumstances, not to exceed $250,000 per occurrence. A determination of aggravating circumstances shall be based on factors relating to the cause of the damage such as, but not limited to:

(a) Absence of extenuating circumstances, such as weather conditions or other factors beyond the control of the vessel operator.

(b) Disregard for safe boating practices.

(c) Whether the vessel operator was under the influence of alcohol or drugs.

(d) Navigational error.

(e) Disregard for speed limits or other boating regulations.

(f) Failure to use available charts and equipment or to have such equipment on board.

(g) Willful or intentional nature of the violation.

(h) Previous coral reef damage caused by the vessel operator.

Penalties assessed according to this section may be doubled for damage to coral reefs located within the boundaries of John Pennekamp Coral Reef State Park.

(4) Whenever any person or the agent of any person knowingly refuses to comply with or willfully violates any of the provisions of this chapter so that such person causes damage to the lands of the state or products thereof, including removal of those products, such violator is liable for such damage. Whenever two or more persons or their agents cause damage, and if such damage is indivisible, each violator is jointly and severally liable for such damage; however, if such damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage and subject to the fine attributable to his or her violation.

(5) If a person or the person's agent as described in subsection (2) fails to comply with an order of the board to remove or alter a structure on state-owned land, the board may alter or remove the structure and recover the cost of the removal or alteration from such person.

(6) All fines imposed and damages awarded pursuant to this section are a lien upon the real and personal property of the violator or violators, enforceable by the Department of Environmental Protection as are statutory liens under chapter 85.

(7) All moneys collected pursuant to fines imposed or damages awarded pursuant to this section shall be deposited into the Internal Improvement Trust Fund created by s. 253.01 and used for the purposes defined in that section.

**History.**--s. 2, ch. 15642, 1931; CGL 1936 Supp. 1446(14); s. 11, ch. 25035, 1949; s. 2, ch. 61-119; ss. 11, 27, 35, ch. 69-106; s. 11, ch. 84-79; s. 2, ch. 89-174; s. 10, ch. 89-175; s. 2, ch. 91-175; s. 15, ch. 91-286; s. 70, ch. 94-356; s. 844, ch. 95-148.

**253.05 Prosecuting officers to assist in protecting state lands.**--State attorneys, other prosecuting officers of the state or county, wildlife officers of the Fish and Wildlife Conservation Commission, conservation officers, together with the Secretary of Environmental Protection, and county sheriffs and their deputies shall see that the lands owned by the state, as described in ss. 253.01 and 253.03, shall not be the object of damage, trespass, depredation, or unlawful use by any person. The said officers and their deputies shall, upon information that unlawful use is being made of state lands, report the same, together with the information in their possession relating thereto, to the Board of Trustees of the Internal

Improvement Trust Fund and shall cooperate with the said board in carrying out the purposes of ss. 253.01-253.04 and this section. State attorneys and other prosecuting officers of the state or any county, upon request of the Governor or Board of Trustees of the Internal Improvement Trust Fund, shall institute and maintain such legal proceedings as may be necessary to carry out the purpose of said sections.

**History.**--s. 3, ch. 15642, 1931; CGL 1936 Supp. 1446(15); s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 1, ch. 70-117; s. 71, ch. 94-356; s. 72, ch. 99-245.

**253.111 Notice to board of county commissioners before sale.**--The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:

(1) If an application is filed with the board requesting that they sell certain land to which they hold title and the board decides to sell such land or if the board, without such application, decides to sell such land, the board shall, before consideration of any private offers, notify the board of county commissioners of the county in which such land is situated that such land is available to such county. Such notification shall be given by registered mail, return receipt requested.

(2) The board of county commissioners of the county in which such land is situated shall, within 40 days after receipt of such notification from the board, determine by resolution whether or not it proposes to acquire such land.

(3) If the board receives, within 30 days after notice is given to the board of county commissioners pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board shall forthwith convey to the county such land at a price that is equal to its appraised market value established by generally accepted professional standards for real estate appraisal and subject to such other terms and conditions as the board determines.

(4) Nothing in this section restricts any right otherwise granted to the board by this chapter to convey land to which they hold title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. The word "land" as used in this act means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.

(5) If any riparian owner exists with respect to any land to be sold by the board, such riparian owner shall have a right to secure such land, which right is prior in interest to the right in the county created by this section, provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the trustees. Such riparian owner may waive this prior right, in which case this section shall apply.

(6) This section does not apply to:

(a) Any land exchange approved by the board;

(b) The conveyance of any lands located within the Everglades Agricultural Area; or

(c) Lands managed pursuant to ss. 253.781-253.785.

**History.**--s. 1, ch. 65-324; ss. 27, 35, ch. 69-106; s. 1, ch. 79-83; s. 4, ch. 83-223; s. 3, ch. 89-174; s. 4, ch. 91-80; s. 4, ch. 92-109; s. 3, ch. 2001-275.

**253.115 Public notice and hearings.**--

(1) After receiving an application in compliance with such forms as may be required by this chapter requesting the board to sell, exchange, lease, or grant an easement on, over, under, above, or across any land to which it holds title, the board must provide notice of the application. The notice shall include the name and address of the applicant; a brief description of the proposed activity and any mitigation; the location of the proposed activity, including whether it is located within an Outstanding Florida Water or aquatic preserve; a map identifying the location of the proposed activity subject to the application; a diagram of the limits of the proposed activity; and a name or number identifying the application and the office where the application can be inspected, and any other information required by rule. A copy of this notice shall be sent to those persons who have requested to be on a mailing list and to each owner of land lying within 500 feet of the land proposed to be leased, sold, exchanged, or subject to an easement, addressed to such owner as the owner's name and address appears on the latest county tax assessment roll.

(2) The board of trustees, the department, or a water management district, as is appropriate, shall consider comments and objections received in response to the public notice required by this section in reaching its decision to approve or deny use of board of trustees-owned lands for a proposed activity. In the event that substantive objections are raised, the department or water management district may hold an informal public hearing in the county in which the proposed activity lies. If the board of trustees, the department, or a water management district, as is appropriate, determines that the sale, lease, exchange, or granting of an easement is not contrary to the public interest, or is in the public interest when required by law, it may approve the proposed activity. The sale of sovereignty submerged lands shall require a determination that the proposed sale is in the public interest.

(3) The board may also publish, or require an applicant to publish, in a newspaper of general circulation within the affected area, a notice of receipt of the application and a notice of intended agency action. The board shall also provide notice of intended agency action to the applicant and to those who have requested a copy of the intended agency action for that application.

(4) Failure to provide the notice as set out in subsections (1) and (3) shall not invalidate the sale, exchange, lease, or easement.

(5) The notice and publication requirements of this section do not apply to:

(a) The release of any reservations contained in Murphy Act deeds or deeds of the board of trustees;

(b) Any conveyance of land lying landward of the line of mean high water, which land does not exceed 5 acres in area;

(c) Any lands covered by the provisions of ss. 253.12(6), (9), and (10), and 253.129;

(d) The lease or easement for any land when the land is being leased to a state agency;

(e) Sovereignty land easements for existing activities completed prior to March 27, 1982;

(f) The conversion of existing marina licenses to sovereignty land leases;

(g) Sovereignty land leases for registered and existing unregistered grandfathered facilities;

(h) The conveyance of lands pursuant to the provisions of former s. 373.4592(4)(b);

(i) Renewals, modifications, or assignments; or

(j) Lands managed pursuant to ss. 253.781-253.785.

(6) The board may establish alternative notice requirements to those in subsections (1) and (3), including a waiver of notice, if adopted by rule for proposed activities under this section which also qualify for a general permit pursuant to chapter 373. Such alternative notice requirements shall take into account the nature and scope of the proposed activities and the effect on other persons.

(7) In the disposition of parcels of state-owned uplands, the Board of Trustees of the Internal Improvement Trust Fund may procure real estate sales services, including open listings, exclusive listings, or auction or other appropriate services, to facilitate the sale of such lands.

**History.**--s. 1, ch. 74-26; s. 1, ch. 77-130; s. 23, ch. 78-95; s. 3, ch. 82-152; s. 5, ch. 83-223; s. 66, ch. 86-186; s. 4, ch. 88-387; s. 4, ch. 89-174; s. 5, ch. 91-80; s. 491, ch. 94-356; s. 845, ch. 95-148; s. 39, ch. 2001-61; s. 4, ch. 2001-275.

**253.12 Title to tidal lands vested in state.**--

(1) Except submerged lands heretofore conveyed by deed or statute, the title to all sovereignty tidal and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board of Trustees of the Internal Improvement Trust Fund. For purposes of fixing bulkhead lines, restrictions on filling land and dredging beyond bulkhead lines, and permits required for filling and dredging, the board shall exercise the same authority over submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams as it does over submerged lands otherwise defined in this subsection.

(2)(a) The Board of Trustees of the Internal Improvement Trust Fund may sell and convey such islands and submerged lands if determined by the board to be in the public interest, upon such prices, terms, and conditions as it sees fit. However, prior to consummating any such sale, the board shall determine to what extent the sale of such islands or submerged lands and their ownership by private persons or the conveyance of such islands or submerged lands to political subdivisions or public agencies would interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, and would result in destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life, and if so, in what respect and to what extent, and it shall consider any other factors affecting the public interests.

(b) In addition to the requirements in paragraph (a), the board shall not sell or convey any interest in such islands and submerged lands to any applicant who does not, at the time of making application for purchase or conveyance, also have before the board:

1. An application for the establishment of a bulkhead line, in the event no bulkhead line is established for the lands subject to the application; and

2. An application for approval of a fill permit issued in accordance with the provisions of this chapter; and

3. A permit or application for a permit to dredge fill material from beneath the navigable waters of the state, in accordance with the provisions of this chapter, in the event the applicant intends to secure such fill material. However, such islands or submerged lands may be sold or conveyed to an applicant who does not have such an application for a permit to dredge or fill lands before the board, upon the condition that the sale or conveyance to such an applicant shall contain a restrictive covenant prohibiting dredging, except for navigation purposes, or filling of such islands or submerged lands. The board shall reserve the authority to waive such restrictive covenant when such waiver is in the public interest, pursuant to such terms and conditions as the board may impose.

(3) After receiving application in compliance with such forms as may be required to show clearly what is intended to be accomplished in any proposed development of said lands and the manner in which said development will be accomplished, and after making the determination required by paragraph (2)(a), the board shall give notice as provided by s. 253.115.

(4) If objections are filed, the board shall proceed to determine the merits of the objections. The report required by subsection (7) shall be made part of the record and duly considered at any hearing. If it appears that the sale of such islands and submerged lands and their ownership by private persons or the conveyance of such islands or submerged lands to political subdivisions or public agencies would:

(a) Be contrary to the public interest;

(b) Interfere with the lawful rights granted riparian owners;

(c) Be, or result in, a serious impediment to navigation;

(d) Interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, to such an extent as to be contrary to the public interest; or

(e) Result in the destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of natural marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life to such an extent as to be contrary to the public interest,

the board shall withdraw the lands from sale. Prior to making the determinations above required, the board may consider any other factors affecting the public interest. Anything in this section to the contrary notwithstanding, lands defined herein lying between the ordinary mean high-water line and any bulkhead line established hereunder shall be sold only to the upland riparian owner and to no other person, firm, or corporation; and such sale to the upland riparian owner shall be made pursuant to the provisions herein.

(5)(a) When any state agency or county, city, or other political subdivision extends or adds to existing lands or islands bordering on or being in the navigable waters, as defined in this section, of the state by filling in or causing to be filled in or by draining or causing to be drained such waters, the board may, upon application therefore, convey to the riparian owner or owners of the upland so extended or added to so much of such extended or added land as is not required exclusively for a municipal, county, state, or other public purpose. The board

may, however, require a deposit to accompany such application of a sum sufficient to cover the actual cost and expenses of processing such application and preparing instruments of conveyance.

(b) Neither this subsection nor any other provision of this chapter shall be construed to permit any state agency or county, city, or other political subdivision to construct islands or extend or add to existing lands or islands bordering on or being in the navigable waters as defined herein or drain such waters for a municipal, county, state, or other public purpose unless such agency is the riparian upland owner or holds the consent in writing of the riparian upland owner consenting to such construction or extension or drainage operation. For the purposes of this subsection, "riparian upland owners" shall be defined as those persons owning upland property abutting those portions of the waters to be filled or drained, which are within 1,000 feet outboard of said riparian upland, but not more than one-half the distance to the opposite upland, if any, and within the extensions of the side boundary lines thereof, when said side boundary lines are extended in the direction of the channel along an alignment which would be required to distribute equitably the submerged land between the upland and the channel. However, nothing herein shall be construed to deny or limit any state agency or county, city, or other political subdivision from exercising the right of eminent domain to the extent and for the purposes authorized by law in connection with such construction, extension, or drainage projects; and nothing herein shall be construed to have application in those instances when the board is authorized by law to establish an erosion control line to implement an authorized beach nourishment, replenishment, or erosion-control project, or for the placement of sand dredged from navigation channels on beaches fronting the waters of the Atlantic Ocean or the Gulf of Mexico, provided such sand is not placed landward of existing lines of vegetation.

(6) Where any person, state agency, county, city, or other political subdivision prior to June 11, 1957, extended or added to existing lands or islands bordering on or being in the navigable waters as defined in this section by filling in or causing to be filled in such lands, the board shall upon application therefore convey said land so filled to the riparian owner or owners of the upland so extended or added to. The consideration for such conveyance shall be the appraised value of said lands as they existed prior to such filling.

(7)(a) In order to assist it in making the determination required by paragraph (2)(a), the board shall require that a biological survey and an ecological study of the lands or interests therein proposed to be sold or conveyed pursuant to any particular application be made, and, when determined by the Department of Environmental Protection to be necessary, that a hydrographic survey be made. All such surveys and studies shall be made by or under the direction of the Department of Environmental Protection, which shall make a report of all such surveys and studies to the board together with its recommendations. The board may adopt regulations requiring that the cost of making any such survey and report be paid by the applicant for purchase of such lands, requiring a deposit by the applicant sufficient to ensure such payment, and providing procedures to be followed in applying for and obtaining such survey and report.

(b) If, in accordance with the provisions of paragraph (2)(b), the surveys and study required by paragraph (a) have already been made, the provisions of this section shall not operate to require an applicant to pay for any additional surveys or studies within 3 years prior to the issuance of such permit.

(8) All conveyances of sovereignty lands or fill material therein heretofore made by the Board of Trustees of the Internal Improvement Trust Fund of Florida subsequent to the enactment of chapter 6451, Acts of 1913, chapter 7304, Acts of 1917, and chapter 57-362, as amended, are hereby ratified, confirmed, and validated in all respects.

[1](9) All of the state's right, title, and interest to all tidally influenced land or tidally influenced islands bordering or being on sovereignty land, which have been permanently extended, filled, added to existing lands, or created before July 1, 1975, by fill, and might be owned by the state, is hereby granted to the landowner having record or other title to all or a portion thereof or to the lands immediately upland thereof and its successors in interest. Thereafter, such lands shall be considered private property, and the state, its political subdivisions, agencies, and all persons claiming by, through, or under any of them, shall be barred from asserting that any such lands are publicly owned sovereignty lands. The foregoing provisions shall act to transfer title only to so much of such extended or added land as was permanently exposed, extended, or added to before July 1, 1975. A showing of dates by which certain lands were filled or added to may be made by aerial photograph or other reasonable method. Upon request of the landowner and submission of a proposed legal description and aerial photographs or other evidence accompanied by a fee set by the board reflecting the actual administrative cost of processing, the board shall provide an appropriate legal description of the waterward boundary line as of July 1, 1975, in a recordable document. The Legislature specifically finds and declares these grants to be in the public interest. The boundary between state-owned sovereignty lands and privately owned uplands is ambulatory and will move as a result of nonavulsive changes. This subsection shall not grant or vest title to any filled, formerly submerged state-owned lands in any person who, as of January 1, 1993, is the record titleholder of the filled or adjacent upland property and who filled or caused to be filled the state-owned lands.

[1](10) Subsection (9) shall not operate to affect the title to lands which have been judicially adjudicated or which were the subject of litigation pending on January 1, 1993, involving title to such lands. Further, the provisions of subsection (9) shall not apply to spoil islands nor to any lands which are included on an official acquisition list, on July 1, 1993, of a state agency or water management district for conservation, preservation, or recreation, nor to lands maintained as state or local recreation areas or shore protection structures.

**History.**--s. 1, ch. 7304, 1917; RGS 1061; CGL 1391; ss. 1, 2, ch. 26776, 1951; s. 1, ch. 57-362; s. 2, ch. 61-119; s. 1, ch. 67-393; ss. 25, 27, 35, ch. 69-106; s. 1, ch. 69-308; s. 1, ch. 70-81; s. 1, ch. 70-97; s. 1, ch. 70-147; s. 1, ch. 70-439; s. 1, ch. 72-214; s. 23, ch. 78-95; s. 4, ch. 82-144; s. 122, ch. 83-217; s. 2, ch. 91-221; s. 81, ch. 93-206; ss. 72, 492, ch. 94-356.

**[1]Note.**--Section 82, ch. 93-206, provides that "[t]he conveyance of property under this act is intended to be complete and effective without reference to or compliance with other statutory provisions. The various statutory provisions dealing with or setting preconditions or procedures for the conveyance of state-owned property and sovereignty lands shall not apply to conveyance made pursuant to this section."

**253.121 Conveyances of such lands heretofore made, ratified, confirmed, and validated.**--All conveyances of sovereignty lands heretofore made by the Board of Trustees of the Internal Improvement Trust Fund subsequent to the enactment of chapters 6451 (June 5, 1913), 6960 (June 2, 1915), and 7304 (May 21, 1917), Acts of 1913, 1915, and 1917, respectively, where advertisement therefore was published in the county of sale but not in the county seat, are hereby ratified, confirmed, and validated in all respects, including all defects subject to ratification, confirmance, and validation by the Legislature. Said conveyances shall be deemed valid notwithstanding defects in the publication of newspaper notices and the publication of such newspaper notices in newspapers not published at the county seat of the county in which the lands are located.

**History.**--s. 1, ch. 29763, 1955; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.1221 Bulkhead lines; reestablishment.**--All bulkhead lines heretofore established pursuant to former s. 253.122 are hereby established at the line of mean high water or ordinary high water. There shall be no filling waterward of the line of mean high water or ordinary high water except upon compliance with this chapter.

**History.**--s. 7, ch. 75-22.

**253.1241 Studies.**--The Department of Environmental Protection shall have a period of 90 days, after application therefore, in which to make the studies and surveys required by s. 253.12. The Board of Trustees of the Internal Improvement Trust Fund and others required by those sections to obtain such studies and surveys shall request them within 30 days after the receipt of an application for sale or for a dredge or fill permit, as the case may be.

**History.**--s. 6, ch. 67-393; ss. 25, 27, 35, ch. 69-106; s. 1, ch. 69-337; s. 79, ch. 77-104; s. 3, ch. 82-27; s. 3, ch. 91-221; s. 73, ch. 94-356.

**253.1252 Citation of rule.**--In addition to any other provisions within this chapter or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this chapter or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

**History.**--s. 2, ch. 79-161.

**253.126 Legislative intent.**--The limitations and restrictions imposed by this chapter as amended by chapter 67-393, Laws of Florida, upon the construction of islands or the extension or addition to existing lands or islands bordering on or being in the navigable waters, as defined in s. 253.12, shall apply to the state, its agencies and all political subdivisions and governmental units. No other general or special act shall operate to grant exceptions to this section unless this section is specifically repealed thereby.

(1) Notwithstanding any other provision of this chapter, the Department of Environmental Protection may authorize, by rule, the Department of Transportation to perform any activity covered by this chapter, upon certification by the agency that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. To this end, the department may accept such certification of compliance for programs of the agency, conduct investigations for compliance, and, if a violation is found to exist, take all necessary enforcement action pertaining thereto, including, but not limited to, the revocation of certification. The authorization shall be by rule of the department, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the agency with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the department to assure future compliance with this chapter and applicable department rules. Failure of the agency to comply with any provision of the written acceptance shall constitute grounds for its revocation by the department.

(2) The provisions of chapter 120 shall be accorded any person where substantial interests will be affected by an activity proposed to be conducted by such agency pursuant to its certification and the department's acceptance. If a proceeding is conducted pursuant to ss. 120.569 and 120.57, the department may intervene as a party. Should an administrative law judge of the Division of Administrative Hearings of the Department of Management Services submit a recommended order pursuant to ss. 120.569 and 120.57, the Department of Environmental Protection shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.

**History.**--s. 6, ch. 57-362; ss. 8, 9, ch. 67-393; s. 75, ch. 71-355; s. 1, ch. 78-437; s. 103, ch. 92-279; s. 55, ch. 92-326; s. 74, ch. 94-356; s. 58, ch. 96-410.

**253.127 Enforcement.**--The Board of Trustees of the Internal Improvement Trust Fund, the board of county commissioners or governing body of any municipality, or any aggrieved person, shall have the power to enforce the provisions of this law by appropriate suit in equity.

**History.**--s. 7, ch. 57-362; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.128 Enforcement; board or agency under special law.**--In any county where the Legislature by special law or general law with local application has heretofore or hereafter transferred or delegated to any county board or agency other than the board of county commissioners or the governing body of any municipality powers and duties over the establishment of bulkhead line or lines, dredging permits, fill permits, seawall construction or any other powers of a like nature such agency shall have jurisdiction under this law in lieu of the board of county commissioners or the governing body of any municipality as the case may be.

**History.**--s. 8, ch. 57-362.

**253.1281 Review by board.**--

(1) All special acts granting exceptions to the provisions of this chapter relating to issuance of dredge or fill permits shall provide that all action on applications for such permits shall be subject to approval of the Board of Trustees of the Internal Improvement Trust Fund, which shall have the power to reject such permits.

(2) Notwithstanding any provisions to the contrary, any action after July 7, 1970, on any application for a dredge or fill permit pursuant to any special act heretofore or hereafter enacted shall be subject to approval of the board of trustees, which shall have the power to reject such permit.

**History.**--s. 1, ch. 70-375.

**253.129 Confirmation of title in upland owners.**--The title to all lands heretofore filled or developed is herewith confirmed in the upland owners and the trustees shall on request issue a disclaimer to each such owner.

**History.**--s. 9, ch. 57-362; s. 13, ch. 59-1.

**253.135 Construction of ss. 253.12, 253.126, 253.127, 253.128, and 253.129.**--

(1) This law shall not be construed to be in conflict with any general or special law whereby the state has divested itself of title to submerged land or has granted such title to another.

(2) The provisions of ss. 253.12, 253.126, 253.127, 253.128, and 253.129 shall not affect or apply to the construction of islands or the extension or addition to existing lands or islands bordering on or being in the navigable waters as defined in s. 253.12 of the state which was commenced or application for permit to fill which was filed with the United States Corps of Engineers prior to June 11, 1957, as to lands or bottoms lying between ordinary high-water mark and a bulkhead line heretofore established by any county, city, or other political subdivision of the state by official action of its governing body.

**History.**--ss. 10, 11, 12, ch. 57-362; s. 1, ch. 72-261; s. 79, ch. 77-104; s. 18, ch. 83-216; s. 4, ch. 91-221.

**Note.**--Former s. 253.0013.

**253.14 Rights of riparian owners; board of trustees to defend suit.**--

(1) It is expressly provided that nothing contained in this chapter shall be so construed as to deprive any private riparian owner from bringing an injunction suit in equity against the sale provided for in s. 253.12 on the ground that the owner would be thereby deprived of his or her riparian rights granted to him or her by law; provided, that such suit must be commenced within 30 days after the board of trustees shall have overruled the objections of such owner to such proposed sale.

(2) In case suit is brought by any private owner to enjoin such sale, it shall be in the discretion of the board of trustees to defend such suit or to withdraw said lands from sale.

**History.**--ss. 3, 4, ch. 7304, 1917; RGS 1063; CGL 1393; ss. 27, 35, ch. 69-106; s. 139, ch. 95-148.

**253.141 Riparian rights defined; certain submerged bottoms subject to private ownership.**--

(1) Riparian rights are those incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by law. Such rights are not of a proprietary nature. They are rights inuring to the owner of the riparian land but are not owned by him or her. They are appurtenant to and are inseparable from the riparian land. The land to which the owner holds title must extend to the ordinary high watermark of the navigable water in order that riparian rights may attach. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running therewith whether or not mentioned in the deed or lease of the upland.

(2) Navigable waters in this state shall not be held to extend to any permanent or transient waters in the form of so-called lakes, ponds, swamps or overflowed lands, lying over and upon areas which have heretofore been conveyed to private individuals by the United States or by the state without reservation of public rights in and to said waters.

(3) The submerged lands of any nonmeandered lake shall be deemed subject to private ownership where the Board of Trustees of the Internal Improvement Trust Fund of Florida conveyed the same more than 50 years ago without any deductions for water and without any reservation for public use and when taxes have been levied and collected on said submerged lands since conveyance by the state.

(4) Where private ownership of submerged bottoms outward from the shore has originated in a Spanish or other land grant approved by the Congress specifically describing an area in which was included navigable water, or by patent out of the United States prior to the date on which Florida became a state likewise containing a description including navigable water, or upon a valid conveyance out of the state, the submerged land included in such grant, patent, or conveyance shall be subject to taxes lawfully imposed.

**History.**--ss. 1, 2, ch. 28262, 1953; s. 2, ch. 61-119; s. 31, ch. 82-226; s. 200, ch. 85-342; s. 140, ch. 95-148.

**Note.**--Former ss. 192.61(1)-(4), 271.09, 197.315(3), 197.228.

**253.21 Board of trustees may surrender certain lands to the United States and receive indemnity.**--Whenever it may appear that any of the swamplands, granted by the United States to this state by Act of Congress approved September 28, 1850, entitled "An Act to enable the State of Arkansas and other states to reclaim the swamplands within their limits," have been sold or located, the Board of Trustees of the Internal Improvement Trust Fund may surrender to the United States the right, title and claim of the state to said lands, and receive from the United States, in lieu thereof, such reclamation as may be due.

**History.**--ch. 631, 1855; RS 439; GS 627; RGS 1076; CGL 1407; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.29 Board of trustees to refund money paid where title to land fails.**--Any person having heretofore, or who may hereafter purchase in good faith and for value, any lands in the state from the Board of Trustees of the Internal Improvement Trust Fund of the state, and which title has failed by reason of the fact that the Board of Trustees of the Internal Improvement Trust Fund had no title or right to convey the same, the Board of Trustees of the Internal Improvement Trust Fund shall refund to said party the sums of money so paid for said lands without interest thereon upon due proof being made.

**History.**--s. 1, ch. 5175, 1903; GS 635; RGS 1084; CGL 1415; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.34 Transfer of notes owned by board.**--The Board of Trustees of the Internal Improvement Trust Fund may endorse and transfer to any person, with or without recourse, any bills, notes or other obligations which the said board may now own, or may hereafter acquire.

**History.**--s. 5, ch. 6453, 1913; RGS 1089; CGL 1420; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.36 Title to reclaimed marshlands, wetlands, or lowlands in board of trustees.**--The title to all marsh, wet or lowlands as have become permanently reclaimed, title to which is in the state, is vested in the Board of Trustees of the Internal Improvement Trust Fund to be held by the state and disposed of, as provided in this chapter.

**History.**--s. 1, ch. 7891, 1919; CGL 1425; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.37 Survey to be made; sale of lands; preference to buyers.**--When it shall be brought to the attention of the Board of Trustees of the Internal Improvement Trust Fund that such lands exist as are defined in s. 253.36, the board may cause a survey of the same to be made, which survey shall be connected with the surveys of the United States Government, or other surveys adjoining such lands, as far as may be practicable, and shall be made in conformity with the rules and regulations prescribed by the Department of the Interior for making federal surveys. When such surveys have been completed and, with the plats thereof, have been filed in the office of the said board, the board may proceed to sell and convey the said lands so surveyed in the same manner that other swamp and overflowed lands are sold and disposed of; provided, that in making sales of such land the board shall give first right to purchase to any adjacent owner thereof who desires to complete or square up any fractional section now owned by him or her or to any person who has settled on, or preempted the same, in amounts not exceeding 80 acres; and, provided further, that any and all other such lands as are covered hereby shall be sold by the board to bona fide settlers in amounts not exceeding 80 acres to each settler.

**History.**--s. 2, ch. 7891, 1919; CGL 1426; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 141, ch. 95-148.

**253.38 Riparian rights not affected.**--Nothing in ss. 253.36 and 253.37 shall be construed as in anywise affecting the riparian rights now or heretofore existing under the laws of this state; but it is expressly provided that the provisions of said sections shall apply only to such lands as the Department of the Interior has declined to convey to the state, or which have become permanently reclaimed; and in making sales thereof, the board of trustees may provide for a complete system of reclamation as part of the consideration thereof, or contract for such permanent reclamation in the manner it deems advisable.

**History.**--s. 3, ch. 7891, 1919; CGL 1427; ss. 27, 35, ch. 69-106.

**253.381 Unsurveyed marshlands; sale to upland owners.**--The Board of Trustees of the Internal Improvement Trust Fund of the state and the State Board of Education are hereby authorized to make sales of unsurveyed marshlands to record owners of uplands which have been surveyed by the United States, and to make equitable divisions of unsurveyed marsh areas and allocations of the same for sales with due respect to upland ownership, sales heretofore made, natural divisions of the unsurveyed marshes which are indicated by the general courses of water channels within or across the unsurveyed marshes and to other topographical features of the affected areas.

**History.**--s. 1, ch. 59-497; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.382 Oyster beds, minerals, and oils reserved to state.**--The state saves, reserves and excepts all natural oyster beds upon and all minerals and oils in or under the submerged lands until the same shall be filled in and improved by the riparian owner.

**History.**--s. 4, ch. 8537, 1921; CGL 1777.

**Note.**--Former s. 271.04.

**253.39 Surveys approved by chief cadastral surveyor validated.**--All surveys of lands into townships, sections or other regular land divisions, heretofore or hereafter made in this state, and which have or may hereafter be approved by the chief cadastral surveyor for the Board of Trustees of the Internal Improvement Trust Fund, together with the field notes, plats, or other accessories pertaining thereto, are validated and confirmed and are official public surveys of this state of equal force, tenor and effect as surveys made by or under the direction of the United States Government.

**History.**--s. 1, ch. 7892, 1919; CGL 1428; s. 1, ch. 61-187; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.40 To what lands applicable.**--The provisions for land surveys in ss. 253.39 and 253.41 shall only apply to such lands as have not heretofore been surveyed by the Federal Government; and all acts of the Board of Trustees of the Internal Improvement Trust Fund, together with any and all contracts, resolutions and instructions relating to such surveys, are approved, validated and confirmed.

**History.**--s. 2, ch. 7892, 1919; CGL 1429; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.41 Plats and field notes filed in office of Board of Trustees of Internal Improvement Trust Fund.**--When such surveys, as provided for in ss. 253.39 and 253.40, shall have been

made and approved by the chief cadastral surveyor, the plats and field notes thereof shall be filed in the office of the Board of Trustees of the Internal Improvement Trust Fund of this state, which shall be the custodian of such plats and field notes for the use of the public, under such regulations as may apply to the use of plats and field notes of the public land surveys of the United States, and a duly certified copy of the same shall be admissible as evidence in any court of this state.

**History.**--s. 3, ch. 7892, 1919; CGL 1430; s. 5, ch. 63-294; ss. 27, 35, ch. 69-106.

**253.42 Board of trustees may exchange lands.**--The provisions of this section apply to all lands owned by, vested in, or titled in the name of the board whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.

(1) The board of trustees may exchange any lands owned by, vested in, or titled in the name of the board for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose. For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board shall require an exchange of equal value. Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.

(3) The board shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money deemed necessary by the board for the purpose of equalizing the value of the exchanged property. The board is authorized to make and enter into contracts or agreements for such purpose or purposes.

**History.**--s. 1, ch. 8525, 1921; CGL 1432; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 4, ch. 2003-394.

**253.421 Lands proposed for exchange considered of equal value; time limit for exchange; public purpose requirement; reverter clause.**--In an exchange of lands contemplated between the Board of Trustees of the Internal Improvement Trust Fund and a local government for donated state lands no longer needed for conservation purposes, lands proposed for exchange by the state and the local government shall be considered of equal value and no further consideration shall be required, provided that the donated land being offered for exchange by the state is not greater than 200 acres, and provided that the local government has been negotiating the exchange of lands with the Division of State Lands of the Department of Environmental Protection for a period of not less than 1 year. Notwithstanding the exchange and surplusing requirements of this chapter and chapter 259 and the notice requirements of chapter 270, the board of trustees shall exchange lands with a local government under these provisions no later than August 31, 2003. Lands conveyed to a local government under these

provisions must be used for a public purpose. Deeds of conveyance conveyed to a local government under these provisions shall contain a reverter clause that automatically reverts title to the board of trustees if the local government fails to use the property for a public purpose.

**History.**--s. 15, ch. 2003-394.

**253.422 "Chapman Exchange" lands; time limit for exchange; satisfaction of constitutional requirements.**--Effective upon becoming law and notwithstanding the exchange and surplusing requirements of this chapter and chapter 259 and the notice requirements of chapter 270, in an exchange of lands contemplated between the Board of Trustees of the Internal Improvement Trust Fund and a private entity for formerly submerged sovereignty lands, heretofore known as the "Chapman Exchange," the board shall exchange lands with the private entity under these provisions no later than July 1, 2003. This exchange satisfies the constitutional public interest test for the following reasons:

(1) The land to be exchanged by the state is not greater than 200 acres, is within a rural county of critical economic concern, and is adjacent to lands previously sold by the state to private interests.

(2) The land to be exchanged is currently off the tax rolls of the county, which is at the 10 mill constitutional cap.

(3) The private entity has been negotiating an exchange with the Division of State Lands for a period of not less than 1 year, has acquired lands within the division's project areas for conservation land acquisition, and owns land adjacent to the subject state parcel.

(4) The exchange shall be of equal monetary value. The private entity shall provide any difference in appraised value at the time of closing in cash or the equivalent.

**History.**--s. 16, ch. 2003-394.

**253.43 Convey by deed.**--The Board of Trustees of the Internal Improvement Trust Fund may execute and deliver a deed of conveyance, in its discretion necessary or proper, for the purpose of carrying into effect any such exchange or any contract or agreement therefore, made by said board under or pursuant to the power vested in it by this chapter, or otherwise; and any such deed shall fully convey to and vest in the purchaser or grantee the property so conveyed.

**History.**--s. 2, ch. 8525, 1921; CGL 1433; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.431 Agents may act on behalf of board of trustees.**--The Board of Trustees of the Internal Improvement Trust Fund may, by resolution duly recorded in the records of said board, authorize or employ agents or employees to act in its behalf in the execution and delivery of deeds of conveyance, for the purpose of carrying into effect any exchange or contract or agreement therefore made by said board under or pursuant to the power vested in said board by this chapter, by virtue of the state's equity in lands under chapter 197, pursuant to conveyances by authority of s. 288.14 or chapter 270, by authority of s. 591.19 or s. 285.14, and by such agents or employees issue disclaimers, releases of oil and mineral rights, quitclaim deeds, releases of any and all reservations of whatever kind in the lands of the state, and such other documents as may be authorized by the board to release or convey the state's interests. Any deed executed by said agents or employees shall fully convey to and vest in the purchaser or grantee the property so conveyed.

**History.**--s. 2, ch. 67-5; ss. 27, 35, ch. 69-106.

**253.44 Disposal of lands received.**--All lands conveyed to the Board of Trustees of the Internal Improvement Trust Fund, pursuant to ss. 253.42, 253.43, 253.44, or ratified by s. 253.43, shall be held and disposed of by said board, pursuant to the laws of the state affecting said Board of Trustees of the Internal Improvement Trust Fund, and acts amendatory thereto.

**History.**--s. 3, ch. 8525, 1921; CGL 1434; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.45 Sale or lease of phosphate, clay, minerals, etc., in or under state lands.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund may sell or lease any phosphate, earth or clay, sand, gravel, shell, mineral, metal, timber or water, or any other substance similar to the foregoing, in, on, or under, any land the title to which is vested in the state, the Department of Management Services, the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the State Board of Education, or any other state board, department, or agency; provided that the board of trustees may not grant such a sale or lease on the land of any other state board, department, or agency without first obtaining approval therefrom. No sale or lease provided for in this section shall be allowed on hard-surfaced beaches that are used for bathing or driving and areas contiguous thereto out to a mean low-water depth of 3 feet and landward to the nearest paved public road. Any sale or lease provided for in this section shall be conducted by competitive bidding as provided for in ss. 253.52, 253.53, and 253.54. The proceeds of such sales or leases are to be credited to the board of trustees, board, department, or agency which has title or control of the land involved.

(2) The Board of Trustees of the Internal Improvement Trust Fund or any other state agency authorized to grant leases under this section shall specify in each such lease, in clear and precise terms, the particular minerals for which the lessee is permitted to drill or mine and the manner in which the same may be extracted.

**History.**--s. 1, ch. 9289, 1923; ss. 1, 2, ch. 9315, 1923; s. 1, ch. 13670, 1929; CGL 1936 Supp. 1438(1); s. 1, ch. 59-178; s. 2, ch. 61-119; s. 1, ch. 69-181; s. 1, ch. 69-239; s. 1, ch. 69-369; ss. 22, 25, 27, 35, ch. 69-106; s. 173, ch. 92-279; s. 55, ch. 92-326; s. 75, ch. 94-356; s. 73, ch. 99-245.

**253.451 Construction of term "land the title to which is vested in the state."**--For the purposes of ss. 253.45-253.61 the phrase "land the title to which is vested in the state" or words of similar import shall include lands previously held by the state or any agency thereof, in which mineral rights have been retained by the state or such agency.

**History.**--s. 10, ch. 69-369.

**253.47 Board of trustees may lease, sell, etc., bottoms of bays, lagoons, straits, etc., owned by state, for petroleum purposes.**--The Board of Trustees of the Internal Improvement Trust Fund of the state may lease for royalties or for other agreed compensation, or sell and otherwise dispose of the right to drill wells for the discovery and the production of petroleum and natural gas in the bottoms, owned by the state in its sovereign capacity, of the bays, lagoons, straits, sounds, gulf, streams and lakes within the state; provided, that such leases or sales shall not confer upon the person acquiring the same the right to enter upon any private property of another, nor the right to drill any well or otherwise place permanent or stationary obstruction in such waters or upon such bottoms within one-quarter of 1 mile of the shoreline of the lands of any upland owner, without first having the written consent of such upland owner so to do. The leases and sales so made shall convey to the lessee or vendee the rights of

ingress and egress to, from, and over the bottoms leased or acquired, and the right to construct and maintain on and over such leased or acquired bottoms, in such manner as not to obstruct transportation, any structures, tanks, docks, stations and other equipment, as may be required for the proper development of such leases and the purposes for which the same are made.

**History.**--s. 1, ch. 12429, 1927; CGL 1445; s. 7, ch. 22858, 1945; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**253.51 Oil and gas leases on state lands by the board of trustees.**--The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and empowered to negotiate, sell, and convey leasehold estates in and to lands the title to which is vested in any state board, department or agency thereof or lands the title to which is vested in the state with its control and management in any such board, department or agency, for the purpose of the development thereof, and the production therefrom, of oil and gas, to any person, firm, corporation or association authorized to do business in the state, upon such terms and conditions as may be agreed upon by the contracting parties, not inconsistent with law and the provisions of the chapter.

**History.**--s. 1, ch. 22824, 1945; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 2, ch. 69-369.

**253.511 Reports by lessees of oil and mineral rights, state lands.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund shall require from each lessee of public land under s. 253.45, s. 253.47 or s. 253.51 an annual notarized report as to the status of operations on the land under lease. Such report shall include the number of holes drilled, the dates of drilling, the depth of drilling, and the results of the operation. Reports of mining operations shall also include the number of cubic yards mined. The notarized report of both mining or drilling operations shall include a financial report of moneys paid over to the state, if any. The board may require reasonable additional information, as may be necessary, for a better understanding of the operation under lease; provided, that this shall not be construed as authorizing the board to require any lessee to divulge information relating to its work product, trade secrets, or methods of operation not commonly shared with a leasing agency. Failure to submit the report required by this section within 90 days following the anniversary date of the respective lease may be grounds for revoking and setting aside any lease as to which such report should have been made.

(2) The report required by this section may be introduced in evidence in behalf of the state or any agency thereof in any court proceeding as prima facie evidence of the information contained therein.

**History.**--s. 1, ch. 69-236; ss. 27, 35, ch. 69-106.

**253.512 Applicants for lease of gas, oil, or mineral rights; report as to lease holdings.**--Each applicant for a lease concerning oil, gas, or mineral exploitation or exploration in the state shall submit to the agency of the state issuing the lease a certified statement as to any lease holdings regarding oil, gas, or minerals the applicant has which were granted by the same or any other agency of the state. Such statement shall also include the number and identification of such leases issued and the state agency which issued the lease or leases.

**History.**--s. 1, ch. 69-237.

**253.52 Placing oil and gas leases on market by board.**--Whenever in the opinion of the Board of Trustees of the Internal Improvement Trust Fund there shall be a demand for the purchase of oil and gas leases on any area, tract, or parcel of the land so owned, controlled, or managed, by any state board, department, or agency, then the board shall place such oil and gas lease or leases on the market in such blocks, tracts, or parcels as it may designate. The lease or leases shall only be made after notice by publication thereof has been made not less than once a week for 4 consecutive weeks in a newspaper of general circulation published in Leon County, and in a similar newspaper for a similar period of time published in the vicinity of the lands offered to be leased, the last publication in both newspapers to be not less than 5 days in advance of the sale date. Such notice shall be to the effect that a lease or leases will be offered for sale at such date and time as may be named in said notice and shall describe the land upon which such lease, or leases, will be offered. This notice may be combined with the notice required pursuant to s. 253.115. Before any lease of any block, tract, or parcel of land, submerged, or unsubmerged, within a radius of 3 miles of the boundaries of any incorporated city, or town, or within such radius of any bathing beach, or beaches, outside thereof, such board, department, or agency, shall through one or more of its members hold a public hearing, after notice thereof by publication once in a newspaper of general circulation published at least 1 week prior to said hearing in the vicinity of the land, or lands, offered to be leased, of the offer to lease the same, calling upon all interested persons to attend said hearing where they would be given the opportunity to be heard, all of which shall be considered by the board prior to the execution of any lease or leases to said land, and the board may withdraw said land, or any part thereof, from the market, and refuse to execute such lease or leases if after such hearing, or otherwise, it considers such execution contrary to the public welfare. Before advertising any land for lease the form of the lease or leases to be offered for sale, not inconsistent with law, or the provisions of this section, shall be prescribed by the board and a copy, or copies, thereof, shall be available to the general public at the office of the Board of Trustees of the Internal Improvement Trust Fund and the advertisements of such sale shall so state.

**History.**--s. 2, ch. 22824, 1945; s. 1, ch. 24339, 1947; s. 11, ch. 25035, 1949; s. 10, ch. 26484, 1951; ss. 27, 35, ch. 69-106; s. 3, ch. 69-369; s. 493, ch. 94-356.

**253.53 Sealed bids required.**--All lands subject to this law shall be leased upon sealed bids. All bids shall be directed to the Board of Trustees of the Internal Improvement Trust Fund. Said bids shall not be opened until the day, time, and place designated by the board of trustees and provided in said notice, at which time all bids shall be opened and at which time any person so desiring may be present. The board shall determine in advance the amount of royalty, never less than one-eighth in kind, or in value, and a definite rental, increasing annually after the first 2 years, upon lands not developed for oil or gas, or upon which no well has been commenced in good faith to secure production in paying quantities of gas or oil. The board may, in its discretion, incorporate within the terms of any lease provisions for pooling or unitizing the leased premises, in whole or in part, with other lands or leases and provisions for payments that may be made in lieu of royalty on wells which have been completed as gas wells and are capable of producing gas in paying quantities but are shut in pending development of a satisfactory market outlet, provided this shut-in period pending development of a satisfactory market outlet shall not exceed 48 months from the date of completion of such gas well or wells as herein described, if the lease is not being otherwise maintained by drilling or reworking or by production, which, if made, shall operate to cause the lease to be considered as producing in paying quantities for all purposes thereof. In addition to such fixed charges for said lease, there shall be a cash consideration. The bids shall be for this cash consideration, offered for said lease, in addition to such fixed charges for royalty, rental, and payments in lieu of royalty and shall be payable upon acceptance of said bid. All bids shall be accompanied by a cashier's check, or certified check, for the amount of such cash consideration and shall be payable to the state board, department, or agency which holds title to or controls the land offered for

lease. No bid filed subsequent to the date and hour of sale specified in the advertisement of sale shall be considered.

**History.**--s. 3, ch. 22824, 1945; s. 4, ch. 69-369; s. 1, ch. 69-405; ss. 27, 35, ch. 69-106; s. 67, ch. 86-186.

**253.54 Competitive bidding.**--On the date specified in the advertisement of sale, the Board of Trustees of the Internal Improvement Trust Fund shall at a public meeting consider any and all bids submitted prior to such date for the leasing of the land or lands so advertised and, in the discretion of the board, award the lease to the highest and best bidder submitting a bid therefore; provided that if, in the judgment of the board, the bids submitted do not represent the fair value of such lease or leases, the execution of same is contrary to the public welfare, or the responsibility of the bidder offering the highest amount has not been established to its satisfaction, or for any other reason, it may in its discretion reject said bids, give notice and call for new or other bids, or withdraw said land from the market. If several distinct blocks, parcels, or tracts of land can be separately considered, then, and in that event, the board may so consider them, but if they cannot be so considered, then the rejection for any cause of the highest and best bid shall result in the rejection of all bids.

**History.**--s. 4, ch. 22824, 1945; ss. 27, 35, ch. 69-106; s. 5, ch. 69-369; s. 68, ch. 86-186.

**253.55 Limitation on term of lease.**--

(1) Subject to the further provisions hereof, each lease shall be for a primary term prescribed by the Board of Trustees of the Internal Improvement Trust Fund not to exceed 10 years from the date of the lease, and shall provide that such lease, upon which operations are being carried on in good faith and in a skillful and diligent manner with no cessation of more than 30 consecutive days, or oil or gas is being produced therefrom in paying quantities, shall remain in force and effect. The lease shall provide that if, after production is obtained therefrom, such production should cease, the lease may be maintained, if it is within the primary term, by commencing or resuming the payment of rentals or commencing operations for drilling or reworking said land, in good faith and in a skillful and diligent manner, on or before the rental payment date next ensuing after the expiration of 60 days, or, if it be after the expiration of the primary term, the lease may be maintained in force and effect by commencing and continuing operations for drilling or reworking said land for the development and production of oil or gas on or before 60 days after the cessation of production and prosecuting same with diligence and in a skillful manner with no cessation for more than 30 consecutive days, and if such operations within a reasonable time thereafter result in the production of oil or gas from such leased land in paying quantities, the lease shall remain in effect thereafter as long as oil or gas is produced therefrom in paying quantities. The provisions of this section shall not be construed to permit the automatic renewal of a lease by option after the expiration of the primary term, nor to permit the continuance of any lease except in accordance with the provisions of this section.

(2) Each lease shall provide for its termination in the absence of drilling or reworking operations or production of oil or gas therefrom in paying quantities.

**History.**--s. 5, ch. 22824, 1945; s. 1, ch. 69-238; ss. 27, 35, ch. 69-106; s. 6, ch. 69-369; s. 124, ch. 83-217; s. 5, ch. 88-278; s. 2, ch. 89-358; s. 142, ch. 95-148.

**253.56 Responsibility of bidder.**--Before the acceptance of any bid for such lease the Board of Trustees of the Internal Improvement Trust Fund shall establish to its satisfaction the responsibility of the bidder. And no lease shall be assigned in whole, or in part, nor any land

covered thereby, until and except the board shall approve and consent to such assignment, and such permission shall not be unreasonably withheld.

**History.**--s. 6, ch. 22824, 1945; ss. 27, 35, ch. 69-106; s. 7, ch. 69-369.

**253.57 Royalties.**--The state's royalties, a part of the consideration of every lease, shall be computed after deducting any oil or gas reasonably used for the production hereof.

**History.**--s. 7, ch. 22824, 1945.

**253.571 Proof of financial responsibility required of lessee prior to commencement of drilling.**--The Board of Trustees of the Internal Improvement Trust Fund may require a surety or property bond, an irrevocable letter of credit, or other proof of financial responsibility from each lessee of public land or mineral interest prior to the time such lessee mines, drills, or extracts in any manner, petroleum, petroleum products, gas, sulphur, or any other mineral from such land. The surety bond or irrevocable letter of credit shall be from a surety company or bank authorized to do business in the state. The surety bond, irrevocable letter of credit, or other proof of financial responsibility shall serve as security and is to be forfeited to the board to pay for any damages caused by mining or drilling operations performed by the lessee. In the case of operations planned in the waters of the state or under other particular circumstances which, by their nature warrant greater security in view of possible damages, the board shall give special consideration to the extent of such possible damages and shall set the amount of an adequate and sufficient surety bond, irrevocable letter of credit, or other proof of financial responsibility accordingly. For the purposes of this section, damages shall include, but not be limited to, air, water, and ground pollution, destruction of wildlife or marine productivity and any other damage which impairs the health and general welfare of the citizens of the state.

**History.**--s. 1, ch. 69-367; ss. 27, 35, ch. 69-106; s. 1, ch. 89-358.

**253.60 Conflicting laws.**--The development of the lands leased by the Board of Trustees of the Internal Improvement Trust Fund for the production of oil and gas therefrom shall be in accord with the laws of Florida relating to conservation and control and, if herein is found any conflict with those laws, such laws relating to conservation and control shall prevail.

**History.**--s. 10, ch. 22824, 1945; ss. 27, 35, ch. 69-106; s. 8, ch. 69-369.

**253.61 Lands not subject to lease.**--

(1) Regardless of anything to the contrary contained in this law in any previous section or part thereof, no board or agency mentioned therein or the state shall have the power or authority to sell, execute, or enter into any lease of the type covered by this law relating to any of the following lands, submerged or unsubmerged, except under the circumstances and conditions as hereinafter set out in this section, to wit:

(a) No lease of the type covered by this law shall be granted, sold or executed covering such lands within the corporate limits of any municipality unless the governing authority of the municipality shall have first duly consented to the granting or sale of such lease by resolution.

(b) No lease of the type covered by this law shall be granted, sold or executed covering any such lands in the tidal waters of the state, abutting on or immediately adjacent to the corporate limits of a municipality or within 3 miles of such corporate limits extending from the line of mean high tide into such waters, unless the governing authority of the municipality shall have first duly consented to the granting or sale of such lease by resolution.

(c) No lease of the type covered by this law shall be granted, sold or executed covering such lands on any improved beach, located outside of an incorporated town or municipality, or covering such lands in the tidal waters of the state abutting on or immediately adjacent to any improved beach, or within 3 miles of an improved beach extending from the line of mean high tide into such tidal waters, unless the county commissioners of the county in which such beach is located shall have first duly consented to the granting or sale of such lease by resolution.

(d) Without exception, after July 1, 1989, no lease of the type covered by this law shall be granted, sold, or executed south of 26° north latitude off Florida's west coast and south of 27° north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no oil or natural gas lease shall be granted, sold, or executed covering lands located north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

(2) For the purposes of this section and law an improved beach, situated outside of the corporate limits of any municipality or town, shall be and is hereby defined to be any beach adjacent to or abutting upon the tidal waters of the state and having not less than ten hotels, apartment buildings, residences or other structures, used for residential purposes, on or to any given miles of such beach.

**History.**--s. 11, ch. 22824, 1945; s. 5, ch. 89-175; s. 1, ch. 90-72; s. 7, ch. 91-286.

**253.62 Board of trustees authorized to convey certain lands without reservation.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund in making exchanges of land under ss. 253.42 and 253.43, is hereby authorized in its discretion to convey said land without reservations of oil and gas or of phosphate and other minerals required by s. 270.11, where deeds to lands received in exchange convey title in fee simple without such reservations or to determine the part or parts to be reserved and the part or parts to be conveyed, so as to facilitate exchange on a basis as nearly equal as may be.

(2) The Board of Trustees of the Internal Improvement Trust Fund is further authorized in its discretion to convey land to the United States free from reservations for oil, gas, phosphate and other minerals, provided agreement satisfactory to the board be effectuated with the United States whereby, in the event oil, gas, phosphate or other minerals are ever produced from said land, said board shall receive the customary royalty therefrom. In any conveyance heretofore made to the United States for national park or related purpose subsequent to June 30, 1943, which contained such reservations, said board shall have authority to convey said reservations subject to the conditions hereof in respect to customary royalty.

(3) The authority to convey, granted in subsection (2), shall apply to the conveyance of lands by the board of trustees to the United States for the establishment of the Biscayne National Monument, as defined by Pub. L. No. 90-606 of the United States, and the board is authorized to convey public lands to the United States for the establishment of the Biscayne National Monument. All acts and actions of the board of trustees and all agreements between the board and the United States Government regarding the conveyance of any state lands to the United States for the establishment of the Biscayne National Monument are hereby ratified, confirmed, and validated. For the purposes of the conveyance authorized by this subsection, no provision of this chapter shall apply, and the board of trustees shall not be required, prior to such conveyance, to comply with any conditions precedent to sale of lands set out in this chapter, nor shall the board be required to reserve oil, gas, phosphate, or other mineral rights,

or enter into an agreement for royalties, if any, if same are produced from said lands. However, the waiver herein shall not apply to the requirements of this chapter relating to the setting of bulkhead lines and to dredging and filling.

(4) The legislative intent embodied in this section is to authorize the board of trustees to convey or obligate itself to convey the herein referred to state-owned lands in accordance with the provisions of Pub. L. No. 90-606. Upon certification to the board by the United States Government that all private lands intended to be acquired have been acquired and that owners of private property who have not donated or otherwise conveyed their lands have been paid therefore, the conveyance herein authorized shall become absolute. Nothing herein shall alter the right of the United States Government to immediate possession of said state-owned lands.

**History.**--ss. 1, 2, ch. 23617, 1947; s. 11, ch. 25035, 1949; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 1, ch. 70-364; s. 1, ch. 70-439.

**253.66 Change in bulkhead lines, Pinellas County.**--

(1) As soon as a county bulkhead line as provided in [1]s. 253.122 has been fixed by the water and navigation control authority of Pinellas County around the mainland of the county and the offshore islands therein, and the bulkhead line has been formally approved by the Board of Trustees of the Internal Improvement Trust Fund of the state, all in accordance with the provisions of [1]s. 253.122, no further change in said bulkhead line shall be made notwithstanding the provisions of [1]s. 253.122(5).

(2) It is hereby declared to be the intent of the Legislature that subsection (1) is necessary for the protection of navigable waters in Pinellas County and the fish, wildlife and natural resources therein.

**History.**--ss. 1, 2, 3, 4, 5, ch. 59-522; s. 2, ch. 61-119; s. 1, ch. 61-264; ss. 27, 35, ch. 69-106.

[1]**Note.**--Repealed by s. 26, ch. 75-22.

**253.665 Grant of easements, licenses, and leases.**--

(1) The Board of Trustees of the Internal Improvement Trust Fund of this state is authorized and empowered to grant unto riparian owners as herein defined, their heirs, successors and assigns, perpetual easements and easements, licenses and leases for specified terms of years, permitting such riparian owners, their heirs, successors and assigns, to construct, maintain and operate structures and facilities on, in and under the bed of any navigable stream or any river owned in whole or in part by the state, for the purpose of providing water of a suitable quality for industrial, domestic or other use; provided, however, any instrument granting such easement, lease or license may contain provisions to the effect that such structures and facilities shall be so constructed as not to obstruct the channel of the stream or river or unreasonably interfere with navigation, commerce or fishing thereon.

(2) For the purposes of this section, the term "riparian owners" shall include the owners of uplands bounded by either the high-water or low-water mark of any stream or river and shall include lessees and licensees of any such owners or grantees in easements from such owners of such uplands or river bottoms. The term "channel" shall mean the marked, buoyed, or artificially dredged channel, if any, and if none, shall mean a space equal to 20 percent of the average width of the river or stream at the point concerned which furnishes uninterruptedly, through its course, the deepest water at mean low water.

(3) This section is cumulative and shall not restrict or limit any title, right, interest or privilege of any riparian owner under the common law.

**History.**--ss. 1, 2, 3, ch. 57-325; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

**Note.**--Former s. 271.10.

**253.67 Definitions.**--As used in ss. 253.67-253.75:

(1) "Aquaculture" means the cultivation of aquatic organisms and associated activities, including, but not limited to, grading, sorting, transporting, harvesting, holding, storing, growing, and planting.

(2) "Board" means the Board of Trustees of the Internal Improvement Trust Fund.

(3) "Department" means the Department of Agriculture and Consumer Services.

(4) "Water column" means the vertical extent of water, including the surface thereof, above a designated area of submerged bottom land.

**History.**--s. 1, ch. 69-46; ss. 25, 27, 35, ch. 69-106; s. 76, ch. 94-356; s. 2, ch. 96-247; s. 3, ch. 2000-364; s. 5, ch. 2005-157.

**253.68 Authority to lease or use submerged lands and water column for aquaculture activities.**--

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease or authorize the use of submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. "Aquaculture activities" means any activities, as determined by board rule, related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquaculture support docking. Such leases or authorizations may permit use of the submerged land and water column for either commercial or experimental purposes. However, a resolution of objection adopted by a majority of the county commission of a county within whose boundaries the proposed leased area would lie, if the boundaries were extended to the extent of the interest of the state, may be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to the granting of any such leases or authorizations, the board shall by rule establish and publish guidelines to be followed when considering applications for lease or authorization. Such guidelines shall be designed to protect the public's interest in submerged lands and the publicly owned water column.

(2)(a) The Legislature finds that the state's ability to supply fresh seafood and other aquaculture products has been diminished by a combination of factors, including a diminution of the resources and restrictions on the harvest of certain marine species. The Legislature declares that it is in the state's economic, resource enhancement, and food production interests to promote aquaculture production of food and nonfood aquatic species by facilitating the review and approval processes for authorizing the use of sovereignty submerged land or the water column; simplifying environmental permitting; supporting educational, research, and demonstration programs; and assisting certain local governments to develop aquaculture as a means to promote economic development. The Legislature declares that aquaculture shall be recognized as a practicable resource management alternative to produce marine aquaculture

products, to protect and conserve natural resources, to reduce competition for natural stocks, and to augment and restore natural populations. Therefore, for the purpose of this section, the Legislature declares that aquaculture is in the public interest.

(b) It shall be the policy of the state to foster aquaculture development when the aquaculture activity is consistent with state resource management goals, environmental protection, proprietary interests, and the state aquaculture plan.

**History.**--s. 1, ch. 69-46; ss. 27, 35, ch. 69-106; s. 3, ch. 96-247; s. 4, ch. 97-164; s. 30, ch. 97-220; s. 6, ch. 2005-157.

**253.69 Application to lease submerged land and water column.**--Any applicant desiring to lease a portion of the submerged lands of this state for the purpose of conducting aquaculture activities shall file with the board a written application in such form as it may prescribe, setting forth the following information:

(1) The name and address of the applicant.

(2) A reasonably concise description of the location and amount of submerged land desired and, after the lease is approved, a field survey of the leased area and assurances that the site is properly posted pursuant to the conditions of the lease and s. 327.41.

(3) A description of the aquaculture activities to be conducted, including a specification whether such activities are to be experimental or commercial and an assessment of the current capability of the applicant to carry on such activities.

(4) Such other information as the board of trustees may by regulation require.

**History.**--s. 1, ch. 69-46; ss. 25, 27, 35, ch. 69-106; s. 1, ch. 88-207; s. 5, ch. 96-247.

**253.70 Public notice.**--Upon receiving an application under this act that satisfactorily sets forth the information required by s. 253.69, the board shall give notice of the application as provided by s. 253.115.

**History.**--s. 1, ch. 69-46; ss. 27, 35, ch. 69-106; s. 23, ch. 78-95; s. 494, ch. 94-356.

**253.71 The lease contract.**--When the board has determined that the proposed lease is not incompatible with the public interest and that the applicant has demonstrated his or her capacity to perform the operations upon which the application is based, it may proceed to consummate a lease contract having the following features in addition to others deemed desirable by the board:

(1) TERM.--The maximum initial terms shall be 10 years. Leases shall be renewable for successive terms up to the same maximum upon agreement of the parties.

(2) RENTAL FEES.--

(a) The lease contract shall specify such amount of rental per acre of leased bottom as may be agreed to by the parties and shall take the form of fixed rental to be paid throughout the term of the lease. Beginning January 1, 1990, a surcharge of $5 per acre, or any fraction of an acre, per annum shall be levied upon each lease according to the guidelines set forth in s.

597.010(7). Beginning January 1, 2001, the surcharge shall be increased to $10 per acre, or any fraction of an acre, per annum.

(b) All leases shall stipulate for the payment of the initial term's first year's annual rental within 30 days of the date of execution of the lease instrument, and payment of the annual rental fee for all succeeding years throughout the term of the lease on or before the anniversary date. Failure of the lessee to pay such rent within 30 days of such date shall constitute ground for cancellation of the lease and forfeiture to the state of all works, improvements, and animal and plant life in and upon the leased land and water column.

(3) MAXIMUM AREA TO BE LEASED.--The board shall not lease a larger area of submerged land to any single lessee than has been demonstrated to be within the lessee's capacity to utilize efficiently and consistent with the public interest. However, the board may hold a reasonable area of adjacent bottom land in reserve for the time when a holder of an experimental lease will begin operation under a commercial lease. Successful conduct of aquaculture activities on an experimental basis may be accepted as a demonstration of capacity to conduct such operations on a commercial basis.

(4) PERFORMANCE REQUIREMENTS.--Failure of the lessee to perform effective cultivation shall constitute ground for cancellation of the lease and forfeiture to the state of all the works, improvements, and animal and plant life in and upon the leased land and water column. Effective cultivation shall consist of the grow out of the aquaculture product according to the business plan provided in the lease contract.

(5) DISPOSITION OF IMPROVEMENTS AT TERMINATION OF CONTRACT.--Each contract entered into under this act shall stipulate the disposition of improvements and assets upon the leased lands and waters, including animal and plant life resulting from aquaculture activities.

(6) ASSIGNABILITY OF LEASES.--Leases granted under this act shall be assignable in whole or in part with the approval of the board.

(7) SPECIAL LEASE CONDITIONS.--Leases granted under this section may contain special lease conditions that provide for flexibility in surveying and posting lease boundaries, incorporate conditions necessary to issue permits pursuant to part IV of chapter 373 and chapter 403, and provide for special activities related to aquaculture and resource management.

**History.**--s. 1, ch. 69-46; ss. 27, 35, ch. 69-106; s. 2, ch. 88-207; s. 24, ch. 89-175; s. 2, ch. 91-187; s. 3, ch. 91-286; s. 143, ch. 95-148; s. 6, ch. 96-247; s. 4, ch. 2000-364.

**253.72 Marking of leased areas; restrictions on public use.**--

(1) The board shall require all lessees to stake off and mark the areas under lease according to the conditions of the lease agreement and rules of the board, by appropriate ranges, monuments, stakes, buoys, and fences, so placed as not to interfere unnecessarily with navigation and other traditional uses of the surface.

(2) Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the lessee, the public shall be provided with means of reasonable ingress and egress to and from the leased area for traditional water activities such as boating, swimming, and fishing. All limitations upon the use by the public of the areas under lease that are authorized by the terms of the lease shall be clearly posted by the lessee pursuant to rules by the board. Any person willfully violating posted restrictions commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) To assist in protecting shellfish aquaculture products produced on leases authorized pursuant to this chapter and chapter 597, harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

**History.**--s. 1, ch. 69-46; ss. 27, 35, ch. 69-106; s. 154, ch. 71-136; s. 1, ch. 98-203; s. 8, ch. 98-333; s. 5, ch. 2000-364.

**253.73 Rules; ss. 253.67-253.75.**--The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of ss. 253.67-253.75.

**History.**--s. 1, ch. 69-46; ss. 27, 35, ch. 69-106; s. 45, ch. 98-200.

**253.74 Penalties.**--

(1) Any person who conducts aquaculture activities in excess of those authorized by the board or who conducts such activities on state-owned submerged lands without having previously obtained an authorization from the board commits a misdemeanor and shall be subject to imprisonment for not more than 6 months or fine of not more than $1,000, or both. In addition to such fine and imprisonment, all works, improvements, animal and plant life involved in the project, may be forfeited to the state.

(2) Any person who is found by the department to have violated the provisions of chapter 403 or chapter 597 shall be subject to having his or her lease of state-owned submerged lands canceled.

**History.**--s. 1, ch. 69-46; ss. 25, 26, 27, 35, ch. 69-106; s. 2, ch. 71-137; s. 10, ch. 79-65; s. 77, ch. 94-356; s. 846, ch. 95-148; s. 7, ch. 2005-157.

**253.75 Studies and recommendations by the department and the Fish and Wildlife Conservation Commission; designation of recommended traditional and other use zones; supervision of aquaculture operations.**--

(1) Prior to the granting of any form of authorization under this act, the board shall request comments by the Fish and Wildlife Conservation Commission when the application relates to bottom land covered by fresh or salt water. Such comments shall be based on such factors as an assessment of the probable effect of the proposed use on the conservation of fish or wildlife or other programs under the constitutional or statutory authority of the Fish and Wildlife Conservation Commission.

(2) The department and the Fish and Wildlife Conservation Commission shall both have the following responsibilities with respect to submerged land and water column falling within their respective jurisdictions:

(a) To undertake, or cause to be undertaken, the studies and surveys necessary to support their respective recommendations to the board;

(b) To institute procedures for supervising the aquaculture activities of lessees holding under this act and reporting thereon from time to time to the board; and

(c) To designate in advance areas of submerged land and water column owned by the state for which they recommend reservation for uses that may possibly be inconsistent with the conduct of aquaculture activities. Such uses shall include, but not be limited to, recreational,

commercial and sport fishing and other traditional uses, exploration for petroleum and other minerals, and scientific instrumentation. The existence of such designated areas shall be considered by the board in granting leases under this act.

**History.**--s. 1, ch. 69-46; ss. 25, 27, 35, ch. 69-106; s. 78, ch. 94-356; s. 74, ch. 99-245; s. 6, ch. 2000-364; s. 8, ch. 2005-157.

**253.763 Judicial review relating to permits and licenses.**--

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

**History.**--ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

**253.77 State lands; state agency authorization for use prohibited without consent of agency in which title vested; concurrent processing requirements.**--

(1) A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the board of trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.

(2) For applications that are processed concurrently under s. 373.427, the applicant must submit, as part of the application under this part, any information necessary to satisfy the requirements for issuance of any required:

(a) Environmental resource permit or dredge and fill permit under part IV of chapter 373;

(b) Coastal construction permit under s. 161.041;

(c) Coastal construction control line permit under s. 161.053; and

(d) Waiver or variance of the setback requirements under s. 161.052.

Authorization under this section may not be issued unless the requirements for issuance of any additional required authorizations, permits, waivers, variances, and approvals described in paragraphs (a)-(d) are also satisfied. The final action on an authorization issued under this subsection shall be subject to s. 373.4275.

(3) Notwithstanding any other provisions of this chapter, a riparian owner may selectively trim or alter mangroves on adjacent, publicly owned submerged lands, if the selective trimming or alteration is in compliance with the requirements of ss. [1]403.93-403.938, including any required permit under ss. [1]403.93-403.938.

(4) Notwithstanding any other provision of this chapter, chapter 373, or chapter 403, for activities authorized by a permit or exemption pursuant to chapter 373 or chapter 403, ports listed in s. 403.021(9)(b) and inland navigation districts created pursuant to s. 374.975(3) shall not be required to pay any fees for activities involving the use of sovereign lands, including leases, easements, or consents of use, except application fees including, but not limited to, those required by this chapter, chapter 161, chapter 373, or chapter 403. Further, any federal, state, or local agency or political subdivision that otherwise qualifies for an exemption under chapter 373 or chapter 403 shall be granted a consent of use or public easement for land owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district upon request and legal description of the affected land.

**History.**--ss. 1, 2, ch. 76-245; s. 11, ch. 80-66; s. 12, ch. 84-79; s. 3, ch. 93-34; ss. 79, 495, ch. 94-356; s. 67, ch. 99-251.

[1]**Note.**--Sections 403.93-403.936 were repealed by s. 13, ch. 95-299. Section 403.938 was amended and transferred to s. 403.9333 by s. 12, ch. 95-299.

**253.781 Retention of state-owned lands along former Cross Florida Barge Canal route; creation of Cross Florida Greenways State Recreation and Conservation Area; authorizing transfer to the Federal Government for inclusion in Ocala National Forest.**--

(1) It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Oklawaha River Valley and all lands and interests formerly acquired by the state

or Federal Government for construction and operation of the Cross Florida Barge Canal. It is the finding of the Legislature that these areas have a significant impact upon environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of the majority of the lands by the state and the ownership and control of additional portions by the Federal Government as part of the Ocala National Forest will properly protect and conserve the natural resources and scenic beauty of Florida, enhance recreational opportunities, and be in the public interest. To achieve these goals, the Legislature hereby creates the Cross Florida Greenways State Recreation and Conservation Area.

(2) The department is authorized to transfer for consideration ownership of all lands or interests in lands previously owned by the canal authority contained within the existing boundary of the Ocala National Forest and any extension of the boundary of the Ocala National Forest in Putnam County to the United States Department of Agriculture for the purpose of inclusion in the Ocala National Forest.

(3) The Board of Trustees of the Internal Improvement Trust Fund may acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to lands acquired in less-than-fee title and to privately owned lands that break the continuity of publicly owned lands within the original canal corridor as specified in the University Planning Team Greenway Management Plan along the canal route, using canal authority assets transferred to the department or using state, local, or federal funds dedicated to acquiring lands for conservation and recreation. The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain must be exercised pursuant to chapter 73.

(4) Lands transferred pursuant to this section by the department may reserve existing road rights-of-way.

**History.**--ss. 2, 16, ch. 79-167; ss. 1, 5, ch. 84-287; ss. 1, 10, ch. 90-328; s. 56, ch. 93-213; s. 80, ch. 94-356; s. 6, ch. 99-205.

**253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.**--

(1) It is the intent of the Legislature to conserve, protect, and maintain the natural resources, recreational values, and water management capabilities of Lake Rousseau and the Withlacoochee River. It is the finding of the Legislature that said lands and waters are areas containing and having a significant impact on environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of said lands by the state will properly protect and conserve the natural resources of Florida, enhance recreational opportunities, and be in the public interest.

(2) The department is authorized and directed to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

(3) The Board of Trustees of the Internal Improvement Trust Fund may acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to any less-than-fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including interests previously owned by the canal authority, as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

**History.**--ss. 3, 16, ch. 79-167; s. 5, ch. 84-287; s. 57, ch. 93-213; s. 81, ch. 94-356.

**253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Office of the Executive Director.**--The Cross Florida Greenways State Recreation and Conservation Area is hereby established and is initially assigned to the Office of Greenways Management within the Office of the Secretary. The office shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any other authority of the department.

**History.**--s. 49, ch. 93-213; s. 82, ch. 94-356; s. 9, ch. 99-5.

**253.7822 Boundaries of the Cross Florida Greenways State Recreation and Conservation Area; coordination of management activities.**--

(1) The initial boundaries of the greenways shall be as follows, as described in the August 30, 1992, management plan published by the University of Florida University Planning Team:

(a) Segments 1, 2, 5, 6, 7, 8, and 9 of the Base Boundary.

(b) Segments 3 and 4 of the Payback Boundary II.

(2) The Board of Trustees of the Internal Improvement Trust Fund is authorized to include other contiguous lands acquired after the effective date of this act which are suitable for recreation, conservation, or as wildlife corridors within the greenways. The board is also authorized to modify the greenways boundaries as needed to resolve boundary disputes and to reflect the sale of surplus lands; however, no such modifications may result in a discontinuous corridor or a corridor less than 300 yards in width, except as provided for by federal law.

(3) If lands located outside the greenways boundaries are designated by the Board of Trustees of the Internal Improvement Trust Fund as important to the overall management of the greenways and are purchased by other land acquisition programs, or are otherwise made available for management, the board may direct the greenways-managing entity to coordinate management activities to enhance the greenways to the greatest extent possible, or assume lead agency responsibilities when appropriate.

**History.**--s. 50, ch. 93-213.

**253.7823 Disposition of surplus lands; compensation of counties located within the Cross Florida Canal Navigation District.**--

(1) The department may identify parcels of former barge canal lands that may be sold or exchanged. In identifying said surplus lands, the department shall give priority to those lands not having high recreation or conservation values, and those having the greatest assessed valuations. Although the department shall immediately begin to identify the parcels of surplus

lands to be sold, the department shall offer the lands for sale in a manner designed to maximize the amounts received over a reasonable period of time.

(2) The department is authorized to sell surplus additional former canal lands if they are determined to be unnecessary to the effective provision of the type of recreational opportunities and conservation activities for which the greenway was created.

**History.**--s. 51, ch. 93-213; s. 83, ch. 94-356; s. 5, ch. 2003-394.

**253.7824 Sale of products; proceeds.**--The department may authorize the removal and sale of products from the land where environmentally appropriate, the proceeds from which shall be deposited in the Land Acquisition Trust Fund.

**History.**--s. 52, ch. 93-213; s. 7, ch. 99-205.

**253.7825 Recreational uses.**--

(1) The Cross Florida Greenways State Recreation and Conservation Area must be managed as a multiple-use area pursuant to s. 253.034(2)(a), and as further provided herein. The University of Florida Management Plan provides a conceptual recreational plan that may ultimately be developed at various locations throughout the greenways corridor. The plan proposes to locate a number of the larger, more comprehensive and complex recreational facilities in sensitive, natural resource areas. Future site-specific studies and investigations must be conducted by the department to determine compatibility with, and potential for adverse impact to, existing natural resources, need for the facility, the availability of other alternative locations with reduced adverse impacts to existing natural resources, and the proper specific sites and locations for the more comprehensive and complex facilities. Furthermore, it is appropriate, with the approval of the department, to allow more fishing docks, boat launches, and other user-oriented facilities to be developed and maintained by local governments.

(2) In determining appropriate recreational uses of greenways lands, the promotion and development of resources-based activities shall be given priority consideration, although user-oriented activities shall not be arbitrarily prohibited when site-specific studies indicate compatibility of the proposed use with natural or cultural resources.

(3) For purposes of this section, "user-oriented activities" are those which can be provided in a variety of locations and include such activities as golf, tennis, baseball, archery, target shooting, and playground activities. "Resources-based" activities are dependent on some particular element or combination of elements in the natural or cultural environment and include such activities as fishing, camping, hunting, boating, bicycling, nature study, horseback riding, visiting historical sites, and hiking.

(4)(a) A horse park-agricultural center may be constructed by or on behalf of the Florida Department of Agriculture and Consumer Services on not more than 500 acres of former canal lands.

(b) A multipurpose visitor center may be constructed in conjunction with the horse park-agricultural center on lands dedicated for the horse park-agricultural center.

(c) Resources-based recreational activities associated with the horse park-agricultural center, including, but not limited to, recreational trails, trails for endurance or competitive riding, steeplechase, and other related activities may be permitted within the greenways boundary.

The greenways managing entity shall retain jurisdiction over such activities occurring within the greenways boundary.

(d) Those activities and structures associated with the horse park-agricultural center which are determined by the greenways managing entity to be inappropriate uses of greenways lands shall be sited on lands outside the greenways boundary.

(e) The Legislature finds that the proposed horse park-agricultural center constitutes a public-private partnership project entitling the state to share in the profits generated from the horse park-agricultural center, in lieu of the payment of lease fees.

**History.**--s. 53, ch. 93-213; s. 84, ch. 94-356; s. 5, ch. 97-164; s. 11, ch. 99-247; s. 38, ch. 99-391.

**253.7826 Canal structures.**--

(1) Before making a final decision on the disposition of the Inglis Lock, the department must gather the following additional information to assess the situation and justify the final decision:

(a) Determine and explain the functions of the current lock and flow control structures, especially their function in flood control and weed control.

(b) Determine the operating conditions of these structures and recommend alternative design strategies to improve the current functions provided by existing works that will result in efficient operating and maintenance costs.

(c) Determine the navigability options provided by the current works and determine how these features can be reasonably maintained by an alternative design of the works.

Based on the additional information gathered, the department's recommendations must be presented to the Board of Trustees of the Internal Improvement Trust Fund and to the Legislature by July 1, 1994.

(2) Prior to a final determination of the disposition of the canal works impounding the Oklawaha River at the Rodman Reservoir being made, the department shall study the efficacy, both environmental and economic, of complete restoration of the Oklawaha River, partial restoration of the river, total retention of the Rodman Reservoir, and partial retention of the reservoir. The department shall contact the United States Army Corps of Engineers to determine what elements of its study would mirror a federal environmental impact statement if required by the Corps before issuing permits regarding the disposition of the canal works. Based on all relevant information, including that obtained under this subsection, the efficacy of the options for restoring the Oklawaha River, retaining the Rodman Reservoir, and partial restoration or retention shall be summarized and evaluated by the department. The department shall present its findings and recommendations to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, and the Speaker of the House of Representatives by January 1, 1995. The final determination as to the disposition of the Rodman Reservoir shall be made following the submission of these findings and recommendations.

**History.**--s. 54, ch. 93-213; s. 85, ch. 94-356.

**253.7827 Transportation and utility crossings of greenways lands.**--

(1) The Legislature recognizes that from time to time it may be necessary to serve statewide public needs by allowing transportation and utility uses to cross the greenways lands. When these crossings are needed, the location and design should consider and mitigate the impact on environmental resources, and the value of the land shall be paid based on fair market value.

(2) In furtherance of previous legislative decisions and policy, the Legislature recognizes the need for the Lebanon Station-to-Wildwood Turnpike toll road extension and the need for it to cross greenways lands at the intersection of State Road 200 and State Road 484. The Department of Transportation shall pay fair compensation for the lands needed to accomplish the crossing of greenways lands and shall mitigate the impacts of the crossing to the extent practical.

(3) Furthermore, the Legislature recognizes the needs expressed by Marion County to provide for the southerly extension of Sixtieth Avenue between State Road 200 and Interstate 75 and for the extension to cross the greenways lands to allow for the orderly growth and development of Marion County. Right-of-way for this extension across greenways lands shall be designed to mitigate the impacts to the extent practical, and the value of such lands shall be paid based on fair market value or, at the option of Marion County, the value can be subtracted from the amount of reimbursement due the county pursuant to s. 253.783.

**History.**--s. 55, ch. 93-213.

**253.7828 Impairment of use or conservation by agencies prohibited.**--All agencies of the state, regional planning councils, water management districts, and local governments shall recognize the special character of the lands and waters designated by the state as the Cross Florida Greenways State Recreation and Conservation Area and shall not take any action which will impair its use and conservation.

**History.**--s. 60, ch. 93-213.

**253.7829 Management plan for retention or disposition of former Cross Florida Barge Canal lands; authority to manage lands until disposition.**--

(1) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay from the canal authority assets, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition as provided in this section of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, and lands to be transferred to the state by the United States Army Corps of Engineers. The management plan shall establish a plan for delineating the specific boundaries of the Cross Florida Greenways State Recreation and Conservation Area. The Legislature intends that such boundaries include, at a minimum, a 300-yard-wide corridor, except where the original corridor is a lesser width or except in areas where bridges and roads cross the canal corridor, on former canal lands within the original canal corridor extending from the St. Johns River to the Gulf of Mexico, including all of the Oklawaha River Valley and Rodman Reservoir, and all canal works in all areas whether completed and in use or not, but excluding all parts of Lake Rousseau. Such boundaries may include other former canal lands according to the following criteria:

1. The proximity of the lands to former canal corridor lands.

2. The environmental sensitivity or importance of the lands or its characteristics as a unique or significant wildlife habitat.

3. The proximity of the lands to existing state or federal land which is maintained, at least in part, as natural wildlife habitat, so that the addition of the parcel would function as a wildlife corridor, or as additional habitat.

4. The potential of the lands to be developed as outdoor recreation lands.

Commercially valuable parcels, including those parcels near road crossings, within the canal corridor which do not meet the criteria of subparagraphs 1.-4. and other former canal lands which are not included within the boundaries of the Cross Florida Greenways State Recreation and Conservation Area under the criteria of subparagraphs 1.-4., may be disposed of as surplus lands pursuant to s. 253.783(2)(a)-(d). Such alternatives for disposition will include retention by the state or any agency thereof for the specific public purposes outlined in this paragraph or by the counties or adjacent municipalities for recreational or conservation purposes, and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to s. 253.783(2)(a)-(d). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the Cross Florida Barge Canal.

(b) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities. Operation and maintenance of water control structures may be delegated by the department to the St. Johns River Water Management District or the Southwest Florida Water Management District, as necessary. Rights-of-way necessary for the construction and maintenance of electric transmission lines may be authorized.

(2) The development of hydroelectric power is a compatible use of greenway land and may be considered by the Board of Trustees of the Internal Improvement Trust Fund as an allowable use within the greenways of Lake Rousseau and the lower Withlacoochee River, provided that such hydroelectric power complies with all requisite state and federal environmental and water management standards.

(3)(a) Before taking any action to control the rhesus monkey population located in Marion County, the Fish and Wildlife Conservation Commission shall conduct a study of the options available to them to deal with control of the rhesus monkeys located within a 10-mile radius of the convergence of the Oklawaha and Silver Rivers. The options studied shall include but not be limited to:

1. Developing a management plan to allow the monkeys to remain in their present locations.

2. Relocating all or some of the monkeys to appropriate private state or federal lands in the United States.

3. Sterilizing all or some of the monkeys, regardless of whether they remain in their present location or are relocated.

4. Euthanizing all or some of the monkeys.

(b) During the time the study is being conducted, the Fish and Wildlife Conservation Commission may control monkeys that constitute a threat to visitors to such area. Such control includes, but is not limited to, the right to deny public access to any area where the monkeys

are known to congregate. The Fish and Wildlife Conservation Commission shall post adequate warning signs in areas to which the public is denied access.

(c) The Fish and Wildlife Conservation Commission may consult with any other local or state agency while conducting the study and may subcontract with any such agency to complete the study.

(d) The study of the options shall be delivered to the Board of Trustees of the Internal Improvement Trust Fund.

(e) Nothing in this subsection affects the signed agreement between the department and the Silver Springs Attraction regarding the relocation of rhesus monkeys from Silver River State Park to the attraction, and such agreement continues to be valid.

(4) The Board of Trustees of the Internal Improvement Trust Fund may authorize the sale or exchange of surplus lands within the former Cross Florida Barge Canal project corridor and the acquisition of privately owned lands or easements over such privately owned lands within the project corridor necessary for purposes of completing a continuous corridor or for other management purposes provided by law. However, such acquisition shall be funded from the proceeds of any sale or exchange of surplus canal lands after repayment to the counties, as provided in s. 253.783(2)(e), or from other funds appropriated by the Legislature.

(5) The management plan shall specifically and in sufficient detail address the canal corridor lands comprising the Oklawaha River Valley, identifying the recreational and scientific management options which are environmentally desirable and cost-effective. The management plan shall be consistent with the ultimate aim of developing an overall integrated management plan for continued preservation of the entire Oklawaha River Valley ecosystem.

(6) The management plan shall be prepared by the department. The management plan shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the chairs of the Senate Committee on Natural Resources and Conservation and the House Committee on Natural Resources, no later than [1]2 years from the deauthorization of the Cross Florida Barge Canal. Operation and maintenance of water control structures shall be delegated to the Southwest Florida Water Management District and the St. Johns River Water Management District or a responsible entity contracted by the districts during the period from November 28, 1992, until the management plan is completed by the canal authority and is adopted by the Legislature. The final disposition of the water control structures must be outlined in this management plan as adopted by the Legislature. Such plan shall not be implemented until state legislation specifically directing implementation of the submitted plan or a modified plan, as recommended, becomes effective.

**History.**--s. 6, ch. 84-287; s. 2, ch. 85-302; s. 2, ch. 90-328; s. 3, ch. 92-116; s. 58, ch. 93-213; s. 86, ch. 94-356; s. 847, ch. 95-148; s. 8, ch. 99-205; s. 75, ch. 99-245; s. 40, ch. 2001-61.

[1]**Note.**--Deauthorized Jan. 22, 1991, by Pub. L. No. 101-640, s. 402.

**253.783 Additional powers and duties of the department; disposition of surplus lands; payments to counties.**--

(1) The department shall make no expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any county, at its option, may elect to acquire any lands so offered without monetary payment. The fair market value of any parcels so transferred shall be subtracted from the county's reimbursement under paragraph (e). These offers will be made within 3 calendar months after the date the management plan is adopted and will be valid for 180 days after the date of the offer.

(b) Extend the second right of refusal, at current appraised value, to the original owner from whom the Canal Authority of the State of Florida or the United States Army Corps of Engineers acquired the land or the original owner's heirs. These offers shall be made by public advertisement in not fewer than three newspapers of general circulation within the area of the canal route, one of which shall be a newspaper in the county in which the lands declared to be surplus are located. The public advertisements shall be run for a period of 14 days. These offers will be valid for 30 days after the expiration date of any offers made under paragraph (a), or 30 days after the date publication begins, whichever is later.

(c) Extend the third right of refusal, at current appraised value, to any person having a leasehold interest in the land from the canal authority. These offers shall be advertised as provided in paragraph (b) and will be valid for 30 days after the expiration date of the offers made under paragraph (b), or 30 days after the date publication begins, whichever is later.

(d) Offer surplus lands not purchased or transferred under paragraphs (a)-(c) to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(e) Refund to the counties of the Cross Florida Canal Navigation District moneys pursuant to this paragraph from the funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof, pursuant to s. 253.781, and from the sales of surplus lands pursuant to this section. Following federal deauthorization of the project, such refunds shall consist of the $9,340,720 principal in ad valorem taxes contributed by the counties and the interest which had accrued on that amount from the time of payment to June 30, 1985. In no event shall the counties be paid less than the aggregate sum of $32 million in cash or the appraised values of the surplus lands. Such refunds shall be in proportion to the ad valorem tax share paid to the Cross Florida Canal Navigation District by the respective counties. Should the funds derived from the conveyance of lands of the project to the Federal Government for payment or from the sale of surplus land be inadequate to pay the total of the principal plus interest, first priority shall be given to repaying the principal and second priority shall be given to repaying the interest. Interest to be refunded to the counties shall be compounded annually at the following rates: 1937-1950, 4 percent; 1951-1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent; 1976-June 30, 1985, 8 percent. In computing interest, amounts already repaid to the counties shall not be subject to further assessments of interest. Any partial repayments provided to the counties under this act shall be considered as contributing to the total repayment owed to the counties. Should the funds generated by conveyance to the Federal Government and sales of surplus lands be more than sufficient to repay said counties in accordance with this section, such excess funds may be used for the maintenance of the greenways corridor.

(f) Carry out the purposes of this act.

**History.**--ss. 4, 16, ch. 79-167; ss. 2, 5, ch. 84-287; ss. 1, 4, ch. 85-302; ss. 3, 10, ch. 90-328; s. 1, ch. 92-116; s. 59, ch. 93-213; s. 87, ch. 94-356; s. 848, ch. 95-148; s. 3, ch. 97-259; s. 9, ch. 99-205.

**253.784 Contracts.**--The department shall have the power and authority to enter into any and all contracts necessary or convenient to the exercise of any of the powers granted to the department by this act. The department is authorized to assign, transfer, and convey to the United States, or to any appropriate agency thereof, such assets, franchises, and property, or interests therein, of the department, including lands, easements, and rights-of-way acquired by the state, and to accept moneys for the same as may be necessary or convenient to the exercise of such powers consistent with this act. The department is authorized to receive by dedication, grant, or transfer any fee or less-than-fee lands owned by the United States Army Corps of Engineers. The department is authorized to enter into agreements with the Federal Government for restoration of areas or receipt of funds for restoration of areas in and around Lake Rousseau, the Cross Florida Barge Canal right-of-way from Lake Rousseau to the Withlacoochee River, the Withlacoochee River, and the Cross Florida Barge Canal right-of-way from the eastern boundary of the expanded Ocala National Forest to the St. Johns River.

**History.**--ss. 6, 16, ch. 79-167; s. 5, ch. 84-287; s. 88, ch. 94-356.

**253.785 Liberal construction of act.**--It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this act, and when strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

**History.**--ss. 10, 16, ch. 79-167; s. 5, ch. 84-287.

**253.80 Murphy Act lands; costs and attorney fees for quieting title.**--No costs or attorney fees of any party adverse to the state may be charged to the state in any proceeding to quiet title in any person to lands the title to which vested in the state under the provisions of chapter 18296, Laws of Florida, 1937.

**History.**--s. 1, ch. 72-268; s. 1, ch. 75-269; s. 52, ch. 77-104; s. 89, ch. 79-400; s. 1, ch. 84-197.

**Note.**--Former s. 197.361.

**253.81 Murphy Act; tax certificates barred.**--The right to apply for a tax deed or to institute other action for recovery on, or enforcement of, tax sale certificates, and subsequent and omitted taxes in connection therewith, that were sold and assigned under the provisions of chapter 18296, Laws of Florida, 1937, commonly known as the Murphy Act, and which certificates are held by private holders, natural or corporate, partnership, trustee, estate of deceased person, or other person or persons under disability, or otherwise, shall be deemed and held to be barred by this section from and after midnight June 30, 1956.

**History.**--s. 1, ch. 29794, 1955; ss. 1, 2, ch. 69-55; s. 1, ch. 72-268; s. 1, ch. 84-197.

**Note.**--Former ss. 192.351, 197.325, 197.366.

**253.82 Title of state or private owners to Murphy Act lands.**--

(1)(a) The interest of the state in any land which was acquired by the state under chapter 18296, Laws of Florida, 1937, but which is listed on a county tax assessment roll as being owned by a person other than the state and on which ad valorem taxes have been paid at least since January 1, 1971, is hereby released to such person. The rights that are released under this subsection are all rights in the land, including state-held subsurface rights.

(b) Upon request by any person, the county tax collector shall record in the official records of the county in which the land is located a certificate that the taxes have been paid since January 1, 1971, by the landowner or the landowner's predecessor in title, if in fact the taxes have been paid. Such certificate is conclusive evidence of that fact.

(2)(a) The title to any land which was acquired by the state under chapter 18296, Laws of Florida, 1937, except those parcels which have been sold, conveyed, dedicated, or released by the state pursuant to subsection (1), is hereby vested in the Board of Trustees of the Internal Improvement Trust Fund.

(b) Land to which title is vested in the board of trustees by paragraph (a) shall be treated in the same manner as other nonsovereignty lands owned by the board. However, any parcel of land the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund pursuant to this section which is 10 acres or less in size and has an appraised market value of $250,000 or less is hereby declared surplus, except for lands determined to be needed for state use, and may be sold in any manner provided by law. Only one appraisal shall be required for a sale of such land. All proceeds from the sale of such land shall be deposited into the Internal Improvement Trust Fund. The Board of Trustees of the Internal Improvement Trust Fund is authorized to adopt rules to implement the provisions of this subsection.

(c) The holder of a claim or lien against land vested in the board of trustees by paragraph (a), including a municipality or special taxing district, has until October 1, 1985, to institute suit in a court of competent jurisdiction to establish or enforce the claim or lien. The failure to institute suit by October 1, 1985, is conclusive evidence of abandonment of the claim or lien, and such claim or lien will become unenforceable. This paragraph shall not operate to revive any claim or lien previously extinguished by operation of law.

(3) Any person who has a claim to Murphy Act lands based upon a defect in a deed executed by the Board of Trustees of the Internal Improvement Trust Fund has until October 1, 1985, to institute suit in a court of competent jurisdiction to establish the claim, or it will be forever barred.

(4) This section does not affect marketability of title established pursuant to chapter 712 prior to October 1, 1984.

(5) This section does not affect the validity of previous conveyances of Murphy Act lands by the board of trustees or previous reservations or restrictions in such conveyances made prior to July 1, 1991.

**History.**--s. 2, ch. 84-197; s. 6, ch. 91-56; s. 144, ch. 95-148; s. 5, ch. 2001-275.

**253.83 Construction of recodification.**--The recodification of the sections relating to chapter 18296, Laws of Florida, 1937, by chapters 72-268 and 84-197, Laws of Florida, shall not serve to reinstate any right to maintain any action that had expired prior to October 1, 1984.

**History.**--s. 1, ch. 72-268; s. 3, ch. 84-197.

**Note.**--Former s. 197.391.

**253.86 Management and use of state-owned or other uplands; rulemaking authority.**--

(1) The Office of Coastal and Aquatic Managed Areas of the Department of Environmental Protection shall have the authority to promulgate rules to govern the management and use of state-owned or other uplands assigned to it for management. Such rules may include, but shall not be limited to, establishing prohibited activities or restrictions on activities, consistent with the purposes for which the lands were acquired, designated, or dedicated, and charging fees for use of lands. All fees collected shall be used for the management of uplands managed by the office.

(2) Any person violating or otherwise failing to comply with the rules adopted under this section commits a noncriminal violation as defined in s. 775.08(3), punishable by fine, not to exceed $500 per violation.

**History.**--s. 6, ch. 2001-275.

**TITLE XVIII PUBLIC LANDS AND PROPERTY**

**FLORIDA STATUTES CHAPTER 259**

**LAND ACQUISITIONS FOR CONSERVATION OR RECREATION**



**259.01 Short title.**--This chapter shall be known and may be cited as the "Land Conservation Act of 1972."

**History.**--s. 1, ch. 72-300.

**259.02 Authority; full faith and credit bonds.**--Pursuant to the provisions of s. 11(a), Art. VII of the State Constitution and s. 215.59, the issuance of state bonds pledging the full faith and credit of the state in the principal amount, including any refinancing, not to exceed $200 million for state capital projects for environmentally endangered lands and $40 million for

state capital projects for outdoor recreation lands is hereby authorized, subject to the provisions of ss. 259.01-259.06.

**History.**--s. 1, ch. 72-300.

**259.03 Definitions.**--The following terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Council" means that council established pursuant to s. 259.035.

(2) "Board" means the Governor and Cabinet, as the Board of Trustees of the Internal Improvement Trust Fund.

(3) "Capital improvement" or "capital project expenditure" means those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities' signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.

(4) "Department" means the Department of Environmental Protection.

(5) "Division" means the Division of Bond Finance of the State Board of Administration.

(6) "Water resource development project" means a project eligible for funding pursuant to s. 259.105 that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse. The implementation of eligible projects under s. 259.105 includes land acquisition, land and water body restoration, aquifer storage and recovery facilities, surface water reservoirs, and other capital improvements. The term does not include construction of treatment, transmission, or distribution facilities.

**History.**--s. 1, ch. 72-300; s. 13, ch. 79-255; s. 2, ch. 81-210; s. 10, ch. 89-116; s. 193, ch. 92-279; s. 55, ch. 92-326; s. 12, ch. 99-247; s. 6, ch. 2000-170.

**259.032 Conservation and Recreation Lands Trust Fund; purpose.**--

(1) It is the policy of the state that the citizens of this state shall be assured public ownership of natural areas for purposes of maintaining this state's unique natural resources; protecting air, land, and water quality; promoting water resource development to meet the needs of natural systems and citizens of this state; promoting restoration activities on public lands; and providing lands for natural resource based recreation. In recognition of this policy, it is the intent of the Legislature to provide such public lands for the people residing in urban and metropolitan areas of the state, as well as those residing in less populated, rural areas. It is the further intent of the Legislature, with regard to the lands described in paragraph (3)(c), that a high priority be given to the acquisition of such lands in or near counties exhibiting the greatest concentration of population and, with regard to the lands described in subsection (3), that a

high priority be given to acquiring lands or rights or interests in lands within any area designated as an area of critical state concern under s. 380.05 which, in the judgment of the advisory council established pursuant to s. 259.035, or its successor, cannot be adequately protected by application of land development regulations adopted pursuant to s. 380.05. Finally, it is the Legislature's intent that lands acquired through this program and any successor programs be managed in such a way as to protect or restore their natural resource values, and provide the greatest benefit, including public access, to the citizens of this state.

(2)(a) The Conservation and Recreation Lands Trust Fund is established within the Department of Environmental Protection. The fund shall be used as a nonlapsing, revolving fund exclusively for the purposes of this section. The fund shall be credited with proceeds from the following excise taxes:

1. The excise taxes on documents as provided in s. 201.15; and

2. The excise tax on the severance of phosphate rock as provided in s. 211.3103.

The Department of Revenue shall credit to the fund each month the proceeds from such taxes as provided in this paragraph.

(b) There shall annually be transferred from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund that amount, not to exceed $20 million annually, as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 to acquire lands on the established priority list developed pursuant to this section; however, no moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds. Amounts transferred annually from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund pursuant to this paragraph shall have the highest priority over other payments or transfers from the Conservation and Recreation Lands Trust Fund, and no other payments or transfers shall be made from the Conservation and Recreation Lands Trust Fund until such transfers to the Land Acquisition Trust Fund have been made. Effective July 1, 2001, moneys in the Conservation and Recreation Lands Trust Fund also shall be used to manage lands and to pay for related costs, activities, and functions pursuant to the provisions of this section.

(3) The Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys from the fund in any one year to acquire the fee or any lesser interest in lands for the following public purposes:

(a) To conserve and protect environmentally unique and irreplaceable lands that contain native, relatively unaltered flora and fauna representing a natural area unique to, or scarce within, a region of this state or a larger geographic area;

(b) To conserve and protect lands within designated areas of critical state concern, if the proposed acquisition relates to the natural resource protection purposes of the designation;

(c) To conserve and protect native species habitat or endangered or threatened species, emphasizing long-term protection for endangered or threatened species designated G-1 or G-2 by the Florida Natural Areas Inventory, and especially those areas that are special locations for breeding and reproduction;

(d) To conserve, protect, manage, or restore important ecosystems, landscapes, and forests, if the protection and conservation of such lands is necessary to enhance or protect significant surface water, groundwater, coastal, recreational, timber, or fish or wildlife resources which cannot otherwise be accomplished through local and state regulatory programs;

(e) To promote water resource development that benefits natural systems and citizens of the state;

(f) To facilitate the restoration and subsequent health and vitality of the Florida Everglades;

(g) To provide areas, including recreational trails, for natural resource based recreation and other outdoor recreation on any part of any site compatible with conservation purposes;

(h) To preserve significant archaeological or historic sites; or

(i) To conserve urban open spaces suitable for greenways or outdoor recreation which are compatible with conservation purposes.

(4) Lands acquired under this section shall be for use as state-designated parks, recreation areas, preserves, reserves, historic or archaeological sites, geologic or botanical sites, recreational trails, forests, wilderness areas, wildlife management areas, urban open space, or other state-designated recreation or conservation lands; or they shall qualify for such state designation and use if they are to be managed by other governmental agencies or nonstate entities as provided for in this section.

(5) The board of trustees may allocate, in any year, an amount not to exceed 5 percent of the money credited to the fund in that year, such allocation to be used for the initiation and maintenance of a natural areas inventory to aid in the identification of areas to be acquired pursuant to this section.

(6) Moneys in the fund not needed to meet obligations incurred under this section shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in the manner provided by law. Interest received on such investments shall be credited to the Conservation and Recreation Lands Trust Fund.

(7) The board of trustees may enter into any contract necessary to accomplish the purposes of this section. The lead land managing agencies designated by the board of trustees also are directed by the Legislature to enter into contracts or interagency agreements with other governmental entities, including local soil and water conservation districts, or private land managers who have the expertise to perform specific management activities which a lead agency lacks, or which would cost more to provide in-house. Such activities shall include, but not be limited to, controlled burning, road and ditch maintenance, mowing, and wildlife assessments.

(8) Lands to be considered for purchase under this section are subject to the selection procedures of s. 259.035 and related rules and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 259.041, except as otherwise provided by the Legislature. An inholding or an addition to a project selected for purchase pursuant to this chapter is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $500,000. When at least 90 percent of the acreage of a project has been purchased pursuant to this chapter, the project may be removed from the list and the remaining acreage may continue to be purchased. Moneys from the fund may be used for title work, appraisal fees, environmental audits, and survey costs related to acquisition

expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the Department of Environmental Protection to condemn a specific parcel of land and such parcel has already been approved for acquisition under this section, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

(9) All lands managed under this chapter and s. 253.034 shall be:

(a) Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

(b) Managed for public outdoor recreation which is compatible with the conservation and protection of public lands. Such management may include, but not be limited to, the following public recreational uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, model hobbyist activities, birding, sailing, jogging, and other related outdoor activities compatible with the purposes for which the lands were acquired.

(c) Managed for the purposes for which the lands were acquired, consistent with paragraph (11)(a).

(d) Concurrent with its adoption of the annual Conservation and Recreation Lands list of acquisition projects pursuant to s. 259.035, the board of trustees shall adopt a management prospectus for each project. The management prospectus shall delineate:

1. The management goals for the property;

2. The conditions that will affect the intensity of management;

3. An estimate of the revenue-generating potential of the property, if appropriate;

4. A timetable for implementing the various stages of management and for providing access to the public, if applicable;

5. A description of potential multiple-use activities as described in this section and s. 253.034;

6. Provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition;

7. The anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; and

8. Recommendations as to how many employees will be needed to manage the property, and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

(e) Concurrent with the approval of the acquisition contract pursuant to s. 259.041(3)(c) for any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035, consistent with the purposes for which the lands are

acquired. For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the Board of Trustees of the Internal Improvement Trust Fund shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.

(f) State agencies designated to manage lands acquired under this chapter may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the Conservation and Recreation Lands Trust Fund in an amount adequate for the local government or soil and water conservation district to perform its contractual land management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

(g) Immediately following the acquisition of any interest in lands under this chapter, the Department of Environmental Protection, acting on behalf of the board of trustees, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(10)(a) State, regional, or local governmental agencies or private entities designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. Private sector involvement in management plan development may be used to expedite the planning process.

(b) Individual management plans required by s. 253.034(5), for parcels over 160 acres, shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, comanaging entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. For those parcels or projects that are within more than one county, at least one areawide public hearing shall be acceptable and the lead managing agency shall invite a local elected official from each county. The areawide public hearing shall be held in the county in which the core parcels are located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (9)(d) shall be available to the public for a period of 30 days prior to the public hearing.

(c) Once a plan is adopted, the managing agency or entity shall update the plan at least every 10 years in a form and manner prescribed by rule of the board of trustees. Such updates, for parcels over 160 acres, shall be developed with input from an advisory group. Such plans may include transfers of leasehold interests to appropriate conservation organizations or governmental entities designated by the Land Acquisition and Management Advisory Council or its successor, for uses consistent with the purposes of the organizations and the protection, preservation, conservation, restoration, and proper management of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults.

(d) For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the annual Conservation and Recreation Lands report prepared pursuant to [1]s. 259.035(2)(a) have been acquired. Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled from the Preservation 2000 Trust Fund to any budget entity or any water management district that has more than one-third of its management plans overdue.

(e) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to preserve and protect natural resources and restore habitat, and for controlling the spread of nonnative plants and animals, and for prescribed fire and other appropriate resource management activities.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities, based on the purposes for which the lands were acquired.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses and public access that would be consistent with the purposes for which the lands were acquired.

(f) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the Land Acquisition and Management Advisory Council or its successor, which shall:

1. Within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection.

2. Consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property.

3. After its review, submit the plan, along with its recommendations and comments, to the board of trustees, with recommendations as to whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(g) The board of trustees shall consider the individual management plan submitted by each state agency and the recommendations of the Land Acquisition and Management Advisory

Council, or its successor, and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board of trustees which is not in accordance with an approved individual management plan is subject to termination by the board of trustees.

By July 1 of each year, each governmental agency and each private entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(11)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained for the purposes for which they were acquired and for the public to have access to and use of these lands where it is consistent with acquisition purposes and would not harm the resources the state is seeking to protect on the public's behalf.

(b) An amount up to 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements not eligible for funding pursuant to s. 11(e), Art. VII of the State Constitution, and for associated contractual services, for lands acquired pursuant to this section, s. 259.101, s. 259.105, or previous programs for the acquisition of lands for conservation and recreation, including state forests, to which title is vested in the board of trustees and other conservation and recreation lands managed by a state agency. Of this amount, $250,000 shall be transferred annually to the Plant Industry Trust Fund within the Department of Agriculture and Consumer Services for the purpose of implementing the Endangered or Threatened Native Flora Conservation Grants Program pursuant to s. 581.185(11). Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. For the purposes of this paragraph, capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets. Any equipment purchased with funds provided pursuant to this paragraph may be used for the purposes described in this paragraph on any conservation and recreation lands managed by a state agency.

(c) In requesting funds provided for in paragraph (b) for long-term management of all acquisitions pursuant to this chapter and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.

2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.

3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources, such as lands with heavy infestations of nonnative, invasive

plants.

In evaluating the management funding needs of lands based on the above categories, the lead land managing agencies shall include in their considerations the impacts of, and needs created or addressed by, multiple-use management strategies.

(d) All revenues generated through multiple-use management or compatible secondary-use management shall be returned to the lead agency responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, such revenues shall be segregated in an agency trust fund and shall remain available to the agency in subsequent fiscal years to support land management appropriations. For the purposes of this paragraph, compatible secondary-use management shall be those activities described in subsection (9) undertaken on parcels designated as single use pursuant to s. 253.034(2)(b).

(e) Up to one-fifth of the funds provided for in paragraph (b) shall be reserved by the board of trustees for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive, nonnative species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (9)(g). The board of trustees shall make these interim funds available immediately upon purchase.

(f) The department shall set long-range and annual goals for the control and removal of nonnative, invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species that impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) may be used by the agencies receiving those funds for control and removal of nonnative, invasive species on public lands.

[2](g) In addition to the purposes specified in paragraph (b), funds from the 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund may be appropriated for the 2005-2006 fiscal year for the construction of replacement museum facilities. This paragraph expires July 1, 2006.

(12)(a) Beginning July 1, 1999, the Legislature shall make available sufficient funds annually from the Conservation and Recreation Lands Trust Fund to the department for payment in lieu of taxes to qualifying counties and local governments as defined in paragraph (b) for all actual tax losses incurred as a result of board of trustees acquisitions for state agencies under the Florida Forever program or the Florida Preservation 2000 program during any year. Reserved funds not used for payments in lieu of taxes in any year shall revert to the fund to be used for land management in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. To all counties that have a population of 150,000 or fewer. Population levels shall be determined pursuant to s. 11.031.

2. To all local governments located in eligible counties.

3. To Glades County, where a privately owned and operated prison leased to the state has recently been opened and where privately owned and operated juvenile justice facilities leased to the state have recently been constructed and opened, a payment in lieu of taxes, in an amount that offsets the loss of property tax revenue, which funds have already been appropriated and allocated from the Department of Correction's budget for the purpose of reimbursing amounts equal to lost ad valorem taxes.

(c) If insufficient funds are available in any year to make full payments to all qualifying counties and local governments, such counties and local governments shall receive a pro rata share of the moneys available.

(d) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition.

(e) If property which was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The department shall certify to the Department of Revenue those properties that may be eligible under this provision. Once eligibility has been established, that county or local government shall receive 10 consecutive annual payments for each tax loss, and no further eligibility determination shall be made during that period.

(f) Payment in lieu of taxes pursuant to this subsection shall be made annually to qualifying counties and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual taxes paid on the eligible property. With the assistance of the local government requesting payment in lieu of taxes, the state agency that acquired the land is responsible for preparing and submitting application requests for payment to the Department of Revenue for certification.

(g) If the board of trustees conveys to a local government title to any land owned by the board, any payments in lieu of taxes on the land made to the local government shall be discontinued as of the date of the conveyance.

For the purposes of this subsection, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes, with the exception of a water management district.

(13) Moneys credited to the fund each year which are not used for management, maintenance, or capital improvements pursuant to subsection (11); for payment in lieu of taxes pursuant to subsection (12); or for the purposes of subsection (5), shall be available for the acquisition of land pursuant to this section.

(14) The board of trustees may adopt rules to further define the categories of land for acquisition under this chapter.

(15) Within 90 days after receiving a certified letter from the owner of a property on the Conservation and Recreation Lands list or the priority list established pursuant to s. 259.105 objecting to the property being included in an acquisition project, where such property is a project or part of a project which has not been listed for purchase in the current year's land acquisition work plan, the board of trustees shall delete the property from the list or from the boundary of an acquisition project on the list.

**History.**--s. 8, ch. 79-255; s. 16, ch. 80-356; s. 5, ch. 81-35; s. 1, ch. 81-210; s. 165, ch. 81-259; s. 1, ch. 82-152; s. 2, ch. 83-80; s. 1, ch. 83-114; s. 10, ch. 84-330; s. 13, ch. 86-178; s. 6, ch. 86-294; s. 1, ch. 87-96; s. 1, ch. 88-387; s. 13, ch. 89-116; s. 1, ch. 89-276; s. 2, ch. 90-1; s. 8, ch. 90-217; s. 1, ch. 91-62; s. 5, ch. 91-420; s. 2, ch. 92-288; s. 45, ch. 93-206; s. 4, ch. 94-197; s. 1, ch. 94-212; s. 1, ch. 94-240; s. 65, ch. 94-356; s. 5, ch. 95-349; ss. 19, 20, ch. 95-430; s. 3, ch. 96-389; s. 19, ch. 96-420; s. 23, ch. 97-94; ss. 27, 29, ch. 97-153; s. 6, ch. 97-164; ss. 26, 38, ch. 98-46; s. 10, ch. 99-4; s. 34, ch. 99-13; ss. 28, 33, 53, ch. 99-228; s. 13, ch. 99-247; s. 20, ch. 99-292; s. 7, ch. 2000-170; s. 61, ch. 2000-171; s. 45, ch. 2001-61; s. 7, ch. 2002-2; s. 28, ch. 2002-402; s. 15, ch. 2003-6; s. 280, ch. 2003-261; s. 6, ch. 2003-394; s. 18, ch. 2004-5; ss. 42, 75, ch. 2004-269; s. 41, ch. 2005-71.

[1]**Note.**--Deleted by s. 16, ch. 99-247.

[2]**Note.**--Section 41, ch. 2005-71, added paragraph (11)(g) "[i]n order to implement Specific Appropriation 2982D of the 2005-2006 General Appropriations Act."

**Note.**--Former s. 253.023.

**259.0322 Reinstitution of payments in lieu of taxes; duration.**--If the Department of Environmental Protection has made a payment in lieu of taxes to a governmental entity and subsequently suspended such payment, the department shall reinstitute appropriate payments and continue the payments in consecutive years until the governmental entity has received a total of 10 payments for each tax loss.

**History.**--s. 52, ch. 99-247; s. 6, ch. 99-353; s. 7, ch. 2003-394.

**259.035 Acquisition and Restoration Council.**--

(1) There is created the Acquisition and Restoration Council.

(a) The council shall be composed of nine voting members, four of whom shall be appointed by the Governor. These four appointees shall be from scientific disciplines related to land, water, or environmental sciences. They shall serve 4-year terms, except that, initially, to provide for staggered terms, two of the appointees shall serve 2-year terms. All subsequent appointments shall be for 4-year terms. No appointee shall serve more than 6 years. The Governor may at any time fill a vacancy for the unexpired term of a member appointed under this paragraph.

(b) The five remaining appointees shall be composed of the Secretary of Environmental Protection, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, the director of the Division of Historical Resources of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees.

(c) The Governor shall appoint the chair of the council, and a vice chair shall be elected from among the members.

(d) The council shall hold periodic meetings at the request of the chair.

(e) The Department of Environmental Protection shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recording shall be preserved pursuant to chapters 119 and 257.

(f) The board of trustees has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(2) The four members of the council appointed by the Governor shall receive $75 per day while engaged in the business of the council, as well as expenses and per diem for travel, including attendance at meetings, as allowed state officers and employees while in the performance of their duties, pursuant to s. 112.061.

(3) The council shall provide assistance to the board of trustees in reviewing the recommendations and plans for state-owned lands required under ss. 253.034 and 259.032. The council shall, in reviewing such recommendations and plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to ss. 259.101(3)(a) and 259.105(3)(b).

(4) The council may use existing rules adopted by the board of trustees, until it develops and recommends amendments to those rules, to competitively evaluate, select, and rank projects eligible for the Conservation and Recreation Lands list pursuant to ss. 259.032(3) and 259.101(4) and, beginning no later than May 1, 2001, for Florida Forever funds pursuant to s. 259.105(3)(b). In developing or amending the rules, the council shall give weight to the criteria included in s. 259.105(10). The board of trustees shall review the recommendations and shall adopt rules necessary to administer this section.

(5) An affirmative vote of five members of the council is required in order to change a project boundary or to place a proposed project on a list developed pursuant to subsection (4). Any member of the council who by family or a business relationship has a connection with all or a portion of any proposed project shall declare the interest before voting on its inclusion on a list.

(6) The proposal for a project pursuant to this section or s. 259.105(3)(b) may be implemented only if adopted by the council and approved by the board of trustees. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for Conservation and Recreation Lands, Florida Preservation 2000, or Florida Forever funding and shall ensure that each proposed project will meet a stated public purpose for the restoration, conservation, or preservation of environmentally sensitive lands and water areas or for providing outdoor recreational opportunities. The council also shall determine whether the project conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of s. 259.032, s. 259.101, or s. 259.105, whichever is applicable.

**History.**--s. 14, ch. 79-255; s. 3, ch. 81-210; s. 1, ch. 82-46; s. 4, ch. 82-152; s. 24, ch. 83-55; s. 3, ch. 83-114; s. 2, ch. 83-265; s. 31, ch. 86-163; s. 3, ch. 88-387; ss. 8, 9, 11, ch. 89-116; s. 5, ch. 90-217; s. 5, ch. 91-429; ss. 4, 17, ch. 92-288; s. 6, ch. 93-213; s. 3, ch. 94-240; s. 102, ch. 94-356; s. 851, ch. 95-148; s. 4, ch. 96-389; s. 7, ch. 97-164; s. 50, ch. 98-200; s. 2, ch. 98-332; s. 16, ch. 99-247; s. 9, ch. 2000-170; s. 8, ch. 2001-275.

**259.036 Management review teams.**--

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the Board of Trustees of the Internal Improvement Trust Fund are being managed for the purposes for which they were acquired and in accordance with a land management plan adopted pursuant to s. 259.032, the board of trustees, acting through the Department of

Environmental Protection, shall cause periodic management reviews to be conducted as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Division of Forestry of the Department of Agriculture and Consumer Services.

4. One individual from the Fish and Wildlife Conservation Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager mutually agreeable to the state agency representatives.

7. A member of the local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

(b) The staff of the Division of State Lands shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select management areas prior to the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the Division of State Lands shall schedule a land management review at least every 5 years. A copy of the review shall be provided to the manager, the Division of State Lands, and the Acquisition and Restoration Council. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.

(3) In conducting a review, the land management review team shall evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features. The review shall also evaluate the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.

(4) In the event a land management plan has not been adopted within the timeframes specified in s. 259.032(10), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.

(6) No later than the second board meeting in October of each year, the department shall report the annual review findings of its land management review team.

**History.**--s. 8, ch. 97-164; s. 80, ch. 99-245; s. 17, ch. 99-247; s. 8, ch. 2003-394.

**259.037 Land Management Uniform Accounting Council.**--

(1) The Land Management Uniform Accounting Council is created within the Department of Environmental Protection and shall consist of the director of the Division of State Lands, the director of the Division of Recreation and Parks, the director of the Office of Coastal and Aquatic Managed Areas, and the director of the Office of Greenways and Trails of the Department of Environmental Protection; the director of the Division of Forestry of the Department of Agriculture and Consumer Services; the executive director of the Fish and Wildlife Conservation Commission; and the director of the Division of Historical Resources of the Department of State, or their respective designees. Each state agency represented on the council shall have one vote. The chair of the council shall rotate annually in the foregoing order of state agencies. The agency of the representative serving as chair of the council shall provide staff support for the council. The Division of State Lands shall serve as the recipient of and repository for the council's documents. The council shall meet at the request of the chair.

(2) The Auditor General and the director of the Office of Program Policy Analysis and Government Accountability, or their designees, shall advise the council to ensure that appropriate accounting procedures are utilized and that a uniform method of collecting and reporting accurate costs of land management activities are created and can be used by all agencies.

(3) All land management activities and costs must be assigned to a specific category, and any single activity or cost may not be assigned to more than one category. Administrative costs, such as planning or training, shall be segregated from other management activities. Specific management activities and costs must initially be grouped, at a minimum, within the following categories:

(a) Resource management.

(b) Administration.

(c) New facility construction.

(d) Facility maintenance.

Upon adoption of the initial list of land management categories by the council, agencies assigned to manage conservation or recreation lands shall, on July 1, 2000, begin to account for land management costs in accordance with the category to which an expenditure is assigned.

(4) The council shall report agencies' expenditures pursuant to the adopted categories to the President of the Senate and the Speaker of the House of Representatives annually, beginning

July 1, 2001. The council shall also provide this report to the Acquisition and Restoration Council for inclusion in its annual report required pursuant to s. 259.105.

(5) Should the council determine that the list of land management categories needs to be revised, it shall meet upon the call of the chair.

**History.**--s. 25, ch. 2000-170; s. 46, ch. 2001-61.

**259.04 Board; powers and duties.**--

(1) For projects and acquisitions selected for purchase pursuant to ss. 259.035, 259.101, and 259.105:

(a) The board is given the responsibility, authority, and power to develop and execute a comprehensive, statewide 5-year plan to conserve, restore, and protect environmentally endangered lands, ecosystems, lands necessary for outdoor recreational needs, and other lands as identified in ss. 259.032, 259.101, and 259.105. This plan shall be kept current through continual reevaluation and revision. The advisory council or its successor shall assist the board in the development, reevaluation, and revision of the plan.

(b) The board may enter into contracts with the government of the United States or any agency or instrumentality thereof; the state or any county, municipality, district authority, or political subdivision; or any private corporation, partnership, association, or person providing for or relating to the conservation or protection of certain lands in accomplishing the purposes of this chapter.

(c) Within 45 days after the advisory council or its successor submits the lists of projects to the board, the board shall approve, in whole or in part, the lists of projects in the order of priority in which such projects are presented. To the greatest extent practicable, projects on the lists shall be acquired in their approved order of priority.

(d) The board is authorized to acquire, by purchase, gift, or devise or otherwise, the fee title or any lesser interest of lands, water areas, and related resources for environmentally endangered lands.

(2) For state capital projects for outdoor recreation lands, the provisions of chapter 375 and s. 253.025 shall also apply.

**History.**--s. 1, ch. 72-300; s. 15, ch. 79-255; s. 4, ch. 81-210; s. 4, ch. 83-114; s. 12, ch. 89-116; s. 6, ch. 92-288; s. 16, ch. 94-240; s. 18, ch. 99-247; s. 29, ch. 2000-152.

**259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.**--

(1) Neither the Board of Trustees of the Internal Improvement Trust Fund nor its duly authorized agent shall commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless the provisions of this section have been fully complied with. Except for the requirements of subsections (3), (14), and (15), the board of trustees may waive any requirements of this section, may waive any rules adopted pursuant to this section, notwithstanding chapter 120, or may substitute other reasonably prudent procedures, provided the public's interest is reasonably protected. The title to lands acquired pursuant to this section shall vest in the

board of trustees as provided in s. 253.03(1), unless otherwise provided by law, and all such titled lands shall be administered pursuant to the provisions of s. 253.03.

(2) The board of trustees has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section, including rules governing the terms and conditions of land purchases. Such rules shall address with specificity, but not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest to acquire.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(3) No agreement to acquire real property for the purposes described in this chapter, chapter 260, or chapter 375, title to which will vest in the board of trustees, may bind the state unless and until the agreement has been reviewed and approved by the Department of Environmental Protection as complying with the requirements of this section and any rules adopted pursuant to this section. Where any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:

(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;

(b) The contract price agreed to by the seller and acquiring agency exceeds $1 million;

(c) The acquisition is the initial purchase in a project; or

(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but not be limited to, projects where title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.

Where approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or project. Approval of the board of trustees also is required for projects the department recommends acquiring pursuant to subsections (14) and (15). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program.

(4) Land acquisition procedures provided for in this section and related rules are for voluntary, negotiated acquisitions.

(5) For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(6) Evidence of marketable title in the form of a commitment for title insurance or an abstract of title with a title opinion shall be obtained prior to the conveyance of title, as provided in the final agreement for purchase.

(7) Prior to approval by the board of trustees or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 260, or chapter 375, and prior to negotiations with the parcel owner to purchase any other land, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.

(b) Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $500,000. However, when both appraisals exceed $500,000 and differ significantly, a third appraisal may be obtained. When a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of obtaining an outside appraisal is not justified, an appraisal prepared by the division may be used.

(c) Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. The board of trustees shall approve qualified fee appraisal organizations. All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a member of an approved appraisal organization or by a state-certified appraiser who meets the standards and criteria established in rule by the board of trustees. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the agency or a participant in a multiparty agreement, submit to that agency or participant an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.

(d) The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.

(e) Generally, appraisal reports are confidential and exempt from the provisions of s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. However, the department has the authority, at its discretion, to disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the department determines that disclosure of such reports will bring the proposed acquisition to closure. The Division of State Lands may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written multiparty agreement with the division to purchase and hold property for subsequent resale to the division. In addition, the division may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided the appraiser is selected from the division's list of appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, "nonprofit organization" means an organization whose purposes include the preservation of natural resources, and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(f) The Division of State Lands may use, as its own, appraisals obtained by a public agency or nonprofit organization, provided that the appraiser is selected from the division's list of

appraisers and the appraisal is reviewed and approved by the division. For the purposes of this chapter, the term "nonprofit organization" means an organization whose purposes include the preservation of natural resources and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Notwithstanding the provisions of this subsection, on behalf of the board and before the appraisal of parcels approved for purchase under this chapter, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board or, when applicable, the secretary and that the final purchase price may not exceed the maximum offer allowed by law. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(8)(a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the department shall use outside counsel for review of any agreements or documents, or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from the provisions of s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

(9)(a) A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Division of State Lands with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefore.

(b) Within 45 days after receipt by the Division of State Lands of the agreement for purchase and the required documentation, the board of trustees or its designee shall either reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees or its designee may be resubmitted when such deficiencies have been corrected.

(10)(a) The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state and that their acceptance would serve the public interest.

The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt. No deed filed in the public records to donate lands to the Board of Trustees of the Internal Improvement Trust Fund shall be construed to transfer title to or vest title in the board of trustees unless there also shall be filed in the public records, a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands.

(b) The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined to be owned by the state either in fee or by virtue of the state's sovereignty or which are so encumbered as to preclude the use of such lands and appurtenances for any reasonable public purpose.

(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees shall not be increased or decreased as a result of a change of zoning, permitted land uses, or changes in market forces or prices that occur within 1 year after the date the Department of Environmental Protection or board of trustees approves a contract to purchase the parcel.

(11)(a) The Legislature finds that, with the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds. The Legislature also finds that the state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. Additionally, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, where appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Preservation 2000 and Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(b) All project applications shall identify, within their acquisition plans, those projects which require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; entering into land protection agreements as defined in s. 380.0677(4); fee simple

acquisitions with reservations; creating life estates; or any other acquisition technique which achieves the public policy goals listed in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this paragraph shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Florida Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(c) When developing the acquisition plan pursuant to s. 259.105 the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is not always appropriate for certain less than fee simple acquisitions; therefore no proposed less than fee simple acquisition shall be rejected simply because public access would be limited.

(d) Beginning in fiscal year 1999-2000, the department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(e) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(f) The public agency which has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.

(12) Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions.

(13) The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.

(14) The board of trustees, by majority vote of all of its members, voting at a regularly scheduled and advertised meeting, may direct the department to exercise the power of eminent domain pursuant to the provisions of chapters 73 and 74 to acquire any of the properties on the acquisition list established by the land acquisition selection committee and approved by the board of trustees. However, the board of trustees may only make such a vote under the following circumstances:

(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.

(b) The land is of special importance to the state because of one or more of the following reasons:

1. It involves an endangered or natural resource and is in imminent danger of development.

2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.

3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.

Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide that service. If the Department of Transportation or a water management district enters such a contract with the department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.

(15) The board of trustees, by an affirmative vote of at least three of its members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to ss. 259.101(3)(a) and 259.105 for the acquisition of lands that:

(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;

(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.

For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to this chapter, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.

(16) The Auditor General shall conduct audits of acquisitions and divestitures which he or she deems necessary, according to his or her preliminary assessments of board-approved acquisitions and divestitures. These preliminary assessments shall be initiated not later than 60 days following the final approval by the board of land acquisitions under this section. If an audit is conducted, the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(17) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant to the procedures set out in s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding any provisions in this section or in related rules.

(18) Any agency authorized to acquire lands on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.

(19) Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands including the cattle-dipping vats.

**History.**--s. 4, ch. 94-240; s. 852, ch. 95-148; s. 3, ch. 95-349; s. 5, ch. 96-389; s. 115, ch. 96-406; s. 51, ch. 98-200; s. 12, ch. 98-336; s. 19, ch. 99-247; s. 30, ch. 2000-152; s. 88, ch. 2001-266; s. 16, ch. 2003-6; s. 281, ch. 2003-261; s. 9, ch. 2003-394.

**259.045 Purchase of lands in areas of critical state concern; recommendations by department and land authorities.**--Within 45 days of the designation by the Administration Commission of an area as an area of critical state concern under s. 380.05, the Department of Environmental Protection shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within the proposed area and shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any lands situated in such area of critical state concern as environmentally endangered lands or outdoor recreation lands. The department, and a land authority within an area of critical state concern as authorized in chapter 380, may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

**History.**--s. 3, ch. 79-73; s. 2, ch. 94-212; s. 103, ch. 94-356.

**259.05 Issuance of bonds.**--

(1) Upon request of the board, by appropriate resolution, the Division of Bond Finance from time to time, subject to the debt limitation provided herein, may issue bonds pledging the full faith and credit of the state as shall be necessary to provide sufficient funds to achieve the purposes set out in such request.

(2) The issuance of such bonds to finance state capital projects for environmentally endangered lands or outdoor recreation lands is authorized in the manner, and subject to the limitations, provided by the State Bond Act, except as otherwise expressly provided herein.

**History.**--s. 1, ch. 72-300.

**259.06 Construction.**--The provisions of ss. 259.01-259.06 shall be liberally construed in a manner to accomplish the purposes thereof.

**History.**--s. 1, ch. 72-300.

**259.07 Public meetings.**--The council, before making recommendations to the board for the purchase of any land pursuant to s. 259.035, shall hold one or more public meetings on the proposed purchase of such land in areas of the state where major portions of such land are situated. At least 30 days in advance of such public meeting, notice shall be published in newspapers of general circulation in the areas where such lands are located, indicating the

date, time, and place of such public meeting. A report of the public meeting shall be submitted to the board along with the recommendation for purchase of such land.

**History.**--s. 1, ch. 74-59; s. 7, ch. 92-288.

**259.101 Florida Preservation 2000 Act.**--

(1) SHORT TITLE.--This section may be cited as the "Florida Preservation 2000 Act."

(2) LEGISLATIVE FINDINGS.--The Legislature finds and declares that:

(a) The alteration and development of Florida's natural areas to accommodate its rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of recreation space, and the diminishment of wetlands and forests.

(b) Imminent development of Florida's remaining natural areas and continuing increases in land values necessitate an aggressive program of public land acquisition during the next decade to preserve the quality of life that attracts so many people to Florida.

(c) Acquisition of public lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and to provide multiple benefits, including preservation of fish and wildlife habitat, recreation space, and water recharge areas. Governmental agencies responsible for public land acquisition should work together to purchase lands jointly and to coordinate individual purchases within ecological systems.

(d) One of the purposes of the Florida Communities Trust program is to acquire, protect, and preserve open space and recreation properties within urban areas where pristine animal and plant communities no longer exist. These areas are often overlooked in other programs because of their smaller size and proximity to developed property. These smaller parcels are, however, critically important to the quality of life in these urban areas for the residents who live there as well as to the many visitors to the state. The trust shall consider projects submitted by local governments which further the goals, objectives, and policies of the conservation, recreation and open space, or coastal elements of their local comprehensive plans or which serve to conserve natural resources or resolve land use conflicts.

(e) South Florida's water supply and unique natural environment depend on the protection of lands buffering the East Everglades and the Everglades water conservation areas.

In addition, the Legislature recognizes the conflicting desires of the citizens of this state to prosper through economic development and to preserve the natural areas of Florida that development threatens to claim. The Legislature further recognizes the urgency of acquiring natural areas in the state for preservation, yet acknowledges the difficulty of ensuring adequate funding for accelerated acquisition in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of the Florida Preservation 2000 Act for each of the 10 years of the program's duration and to do so in a fiscally responsible manner.

(3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.--Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. In fiscal year 2000-2001, for each Florida Preservation 2000 program

described in paragraphs (a)-(g), that portion of each program's total remaining cash balance which, as of June 30, 2000, is in excess of that program's total remaining appropriation balances shall be redistributed by the department and deposited into the Save Our Everglades Trust Fund for land acquisition. For purposes of calculating the total remaining cash balances for this redistribution, the Florida Preservation 2000 Series 2000 bond proceeds, including interest thereon, and the fiscal year 1999-2000 General Appropriations Act amounts shall be deducted from the remaining cash and appropriation balances, respectively. The remaining proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Fifty percent to the Department of Environmental Protection for the purchase of public lands as described in s. 259.032. Of this 50 percent, at least one-fifth shall be used for the acquisition of coastal lands.

(b) Thirty percent to the Department of Environmental Protection for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans or for acquisition of lands necessary to implement the Everglades Construction Project authorized by s. 373.4592.

(c) Ten percent to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the Florida Communities Trust pursuant to part III of chapter 380. From funds allocated to the trust, $3 million annually shall be used by the Division of State Lands within the Department of Environmental Protection to implement the Green Swamp Land Protection Initiative specifically for the purchase of conservation easements, as defined in s. 380.0677(4), of lands, or severable interests or rights in lands, in the Green Swamp Area of Critical State Concern. From funds allocated to the trust, $3 million annually shall be used by the Monroe County Comprehensive Plan Land Authority specifically for the purchase of any real property interest in either those lands subject to the Rate of Growth Ordinances adopted by local governments in Monroe County or those lands within the boundary of an approved Conservation and Recreation Lands project located within the Florida Keys or Key West Areas of Critical State Concern; however, title to lands acquired within the boundary of an approved Conservation and Recreation Lands project may, in accordance with an approved joint acquisition agreement, vest in the Board of Trustees of the Internal Improvement Trust Fund. Of the remaining funds allocated to the trust after the above transfers occur, one-half shall be matched by local governments on a dollar-for-dollar basis. To the extent allowed by federal requirements for the use of bond proceeds, the trust shall expend Preservation 2000 funds to carry out the purposes of part III of chapter 380.

(d) Two and nine-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks. For the purposes of this paragraph, "state park" means all real property in the state under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(e) Two and nine-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07.

(f) Two and nine-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

(g) One and three-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trails systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail.

Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for the purposes described in this subsection. Bond proceeds allocated pursuant to paragraph (c) may be used to purchase lands on the priority lists developed pursuant to s. 259.035. Title to lands purchased pursuant to paragraphs (a), (d), (e), (f), and (g) shall be vested in the Board of Trustees of the Internal Improvement Trust Fund. Title to lands purchased pursuant to paragraph (c) may be vested in the Board of Trustees of the Internal Improvement Trust Fund. The board of trustees shall hold title to land protection agreements and conservation easements that were or will be acquired pursuant to s. 380.0677, and the Southwest Florida Water Management District and the St. Johns River Water Management District shall monitor such agreements and easements within their respective districts until the state assumes this responsibility.

(4) PROJECT CRITERIA.--

(a) Proceeds of bonds issued pursuant to this act and distributed pursuant to paragraphs (3)(a) and (b) shall be spent only on projects which meet at least one of the following criteria, as determined pursuant to paragraphs (b) and (c):

1. A significant portion of the land in the project is in imminent danger of development, in imminent danger of loss of its significant natural attributes, or in imminent danger of subdivision which will result in multiple ownership and may make acquisition of the project more costly or less likely to be accomplished;

2. Compelling evidence exists that the land is likely to be developed during the next 12 months, or appraisals made during the past 5 years indicate an escalation in land value at an average rate that exceeds the average rate of interest likely to be paid on the bonds;

3. A significant portion of the land in the project serves to protect or recharge groundwater and to protect other valuable natural resources or provide space for natural resource based recreation;

4. The project can be purchased at 80 percent of appraised value or less;

5. A significant portion of the land in the project serves as habitat for endangered, threatened, or rare species or serves to protect natural communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities; or

6. A significant portion of the land serves to preserve important archaeological or historical sites.

(b) Each year that bonds are to be issued pursuant to this act, the Land Acquisition and Management Advisory Council shall review that year's approved Conservation and Recreation Lands priority list and shall, by the first board meeting in February, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects on the list which meet one or more of the criteria listed in paragraph (a). The board may remove projects from the list developed pursuant to this paragraph, but may not add projects.

(c) Each year that bonds are to be issued pursuant to this act, each water management district governing board shall review the lands on its current year's Save Our Rivers 5-year plan and shall, by January 15, adopt a listing of projects from the plan which meet one or more of the criteria listed in paragraph (a).

(d) In the acquisition of coastal lands pursuant to paragraph (3)(a), the following additional criteria shall also be considered:

1. The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

2. The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

3. The value of acquiring identified parcels the development of which would adversely affect coastal resources.

When a nonprofit environmental organization which is tax exempt pursuant to s. 501(c)(3) of the United States Internal Revenue Code sells land to the state, such land at the time of such sale shall be deemed to meet one or more of the criteria listed in paragraph (a) if such land meets one or more of the criteria at the time the organization purchases it. Listings of projects compiled pursuant to paragraphs (b) and (c) may be revised to include projects on the Conservation and Recreation Lands priority list or in a water management district's 5-year plan which come under the criteria in paragraph (a) after the dates specified in paragraph (b) or paragraph (c). The requirement of paragraph (3)(a) regarding coastal lands is met as long as an average of one-fifth of the cumulative proceeds allocated through fiscal year 1999-2000 pursuant to that paragraph is used to purchase coastal lands.

(e) The Legislature finds that the Florida Preservation 2000 Program has provided financial resources that have enabled the acquisition of significant amounts of land for public ownership in the first 7 years of the program's existence. In the remaining years of the Florida Preservation 2000 Program, agencies that receive funds are encouraged to better coordinate their expenditures so that future acquisitions, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems to better accomplish the intent of paragraph (2)(c).

(f) The Legislature intends that, in the remaining years of the Florida Preservation 2000 Program, emphasis be given to the completion of projects in which one or more parcels have already been acquired and to the acquisition of lands containing ecological resources which are either not represented or underrepresented on lands currently in public ownership. The Legislature also intends that future acquisitions under the Florida Preservation 2000 Program be limited to projects on the current project lists, or any additions to the list as determined and prioritized by the study, or those projects that can reasonably be expected to be acquired by the end of the Florida Preservation 2000 Program.

(5) Any funds received by the Division of Forestry from the Preservation 2000 Trust Fund pursuant to paragraph (3)(e) shall be used only to pay the cost of the acquisition of lands in furtherance of outdoor recreation and natural resources conservation in this state. The administration and use of any funds received by the Division of Forestry from the Preservation 2000 Trust Fund will be subject to such terms and conditions imposed thereon by the agency of the state responsible for the issuance of the revenue bonds, the proceeds of which are deposited in the Preservation 2000 Trust Fund, including restrictions imposed to ensure that the interest on any such revenue bonds issued by the state as tax-exempt revenue bonds will

not be included in the gross income of the holders of such bonds for federal income tax purposes. All deeds or leases with respect to any real property acquired with funds received by the Division of Forestry from the Preservation 2000 Trust Fund shall contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 375.051 and s. 9, Art. XII of the 1968 Constitution of Florida; and shall contain reverter clauses providing for the reversion of title to such property to the Board of Trustees of the Internal Improvement Trust Fund or, in the case of a lease of such property, providing for termination of the lease upon a failure to use the property conveyed thereby for such purposes.

(6) DISPOSITION OF LANDS.--

(a) Any lands acquired pursuant to paragraph (3)(a), paragraph (3)(c), paragraph (3)(d), paragraph (3)(e), paragraph (3)(f), or paragraph (3)(g), if title to such lands is vested in the Board of Trustees of the Internal Improvement Trust Fund, may be disposed of by the Board of Trustees of the Internal Improvement Trust Fund in accordance with the provisions and procedures set forth in s. 253.034(6), and lands acquired pursuant to paragraph (3)(b) may be disposed of by the owning water management district in accordance with the procedures and provisions set forth in ss. 373.056 and 373.089 provided such disposition also shall satisfy the requirements of paragraphs (b) and (c).

(b) Before land may be surplused as required by s. 253.034(6), or determined to be no longer required for its purposes under s. 373.056(4), whichever may be applicable, there shall first be a determination by the Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, by the owning water management district, that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act. Any lands eligible to be disposed of under this procedure also may be used to acquire other lands through an exchange of lands, provided such lands obtained in an exchange are described in the same paragraph of subsection (3) as the lands disposed.

(c) Notwithstanding paragraphs (a) and (b), no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to fund the Florida Preservation 2000 Act to lose their exclusion from gross income for purposes of federal income taxation. Any revenue derived from the disposal of such lands may not be used for any purpose except for deposit into the Florida Preservation 2000 Trust Fund for recredit to the share held under subsection (3), in which such disposed land is described.

(7) ALTERNATE USES OF ACQUIRED LANDS.--

(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to subsection (3), for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and any other incidental public or private use that is determined by the board or the owning water management district to be compatible with the purposes for which such lands were acquired.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to subsection (3) shall be presumed not to be incompatible with the purposes for which such lands were acquired.

(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state

agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, as described in s. 375.045(4).

(8)(a) The Legislature finds that, with the increasing pressures on the natural areas of this state, the state must develop creative techniques to maximize the use of acquisition and management moneys. The Legislature also finds that the state's environmental land-buying agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. The Legislature also finds that using alternatives to fee simple acquisition by public land-buying agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes at less expense using public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of the land, where appropriate.

Therefore, it is the intent of the Legislature that public land-buying agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It also is the intent of the Legislature that the department and the water management districts spend a portion of their shares of Preservation 2000 bond proceeds to purchase eligible properties using alternatives to fee simple acquisition. Finally, it is the intent of the Legislature that public agencies acquire lands in fee simple for public access and recreational activities. Lands protected using alternatives to fee simple acquisition techniques shall not be accessible to the public unless such access is negotiated with and agreed to by the private landowners who retain interests in such lands.

(b) The Land Acquisition Advisory Council and the water management districts shall identify, within their 1997 acquisition plans, those projects which require a full fee simple interest to achieve the public policy goals, along with the reasons why full title is determined to be necessary. The council and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For the purposes of this subsection, the term "alternatives to fee simple acquisition" includes, but is not limited to: purchase of development rights; conservation easements; flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; land protection agreements; fee simple acquisitions with reservations; or any other acquisition technique which achieves the public policy goals listed in paragraph (a). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. Life estates and fee simple acquisitions with leaseback provisions shall not qualify as an alternative to fee simple acquisition under this subsection, although the department and the districts are encouraged to use such techniques where appropriate.

(c) The department and each water management district shall implement initiatives to use alternatives to fee simple acquisition and to educate private landowners about such alternatives. These initiatives shall include at least two acquisitions a year by the department and each water management district utilizing alternatives to fee simple.

(d) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the

intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.

(e) The public agency which has been assigned management responsibility shall inspect and monitor any less-than-fee-simple interest according to the terms of the purchase agreement relating to such interest.

(f) The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

**History.**--s. 1, ch. 90-217; s. 2, ch. 91-62; s. 7, ch. 91-80; s. 1, ch. 91-192; s. 5, ch. 92-288; s. 64, ch. 93-206; s. 3, ch. 94-115; s. 3, ch. 94-212; s. 17, ch. 94-240; s. 104, ch. 94-356; s. 1, ch. 95-334; s. 4, ch. 95-349; s. 6, ch. 96-389; s. 37, ch. 97-153; ss. 9, 10, ch. 97-164; s. 13, ch. 98-336; s. 35, ch. 99-13; s. 20, ch. 99-247; s. 2, ch. 2000-129; s. 31, ch. 2000-152; s. 40, ch. 2000-158; s. 10, ch. 2000-170; s. 7, ch. 2000-197; s. 47, ch. 2001-61; ss. 36, 37, ch. 2001-254; s. 13, ch. 2001-275; s. 8, ch. 2003-265.

**259.105 The Florida Forever Act.**--

(1) This section may be cited as the "Florida Forever Act."

(2)(a) The Legislature finds and declares that:

1. The Preservation 2000 program provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development, thereby assuring present and future generations access to important open spaces and recreation and conservation lands.

2. The continued alteration and development of Florida's natural areas to accommodate the state's rapidly growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, and public beaches.

3. The potential development of Florida's remaining natural areas and escalation of land values require a continuation of government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's invaluable quality of life.

4. Florida's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate.

5. The needs of urban Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, greenways, and recreation properties within urban areas where pristine

natural communities or water bodies no longer exist because of the proximity of developed property.

6. Many of Florida's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to Florida's burgeoning population. To preserve these valuable ecosystems for future generations, parcels of land must be acquired to facilitate ecosystem restoration.

7. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.

8. Acquisition of lands, in fee simple or in any lesser interest, should be based on a comprehensive assessment of Florida's natural resources and planned so as to protect the integrity of ecological systems and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban as well as rural areas, and water recharge.

9. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

10. It is the intent of the Legislature to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of Florida.

(b) The Legislature recognizes that acquisition is only one way to achieve the aforementioned goals and encourages the development of creative partnerships between governmental agencies and private landowners. Land protection agreements and similar tools should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

(c) Public agencies or other entities that receive funds under this section are encouraged to better coordinate their expenditures so that project acquisitions, when combined with acquisitions under Preservation 2000, Save Our Rivers, the Florida Communities Trust, and other public land acquisition programs, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of this section.

(d) A long-term financial commitment to managing Florida's public lands must accompany any new land acquisition program to ensure that the natural resource values of such lands are protected, that the public has the opportunity to enjoy the lands to their fullest potential, and that the state achieves the full benefits of its investment of public dollars.

(e) With limited dollars available for restoration and acquisition of land and water areas and for providing long-term management and capital improvements, a competitive selection process can select those projects best able to meet the goals of Florida Forever and maximize the efficient use of the program's funding.

(f) To ensure success and provide accountability to the citizens of this state, it is the intent of the Legislature that any bond proceeds used pursuant to this section be used to implement the goals and objectives recommended by the Florida Forever Advisory Council as approved by the Board of Trustees of the Internal Improvement Trust Fund and the Legislature.

(g) As it has with previous land acquisition programs, the Legislature recognizes the desires of the citizens of this state to prosper through economic development and to preserve the natural areas and recreational open space of Florida. The Legislature further recognizes the urgency of restoring the natural functions of public lands or water bodies before they are degraded to a point where recovery may never occur, yet acknowledges the difficulty of ensuring adequate funding for restoration efforts in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of this section and to do so in a fiscally responsible manner, by issuing bonds to be repaid with documentary stamp tax revenue.

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures necessary to implement the water management districts' priority lists developed pursuant to s. 373.199. The funds are to be distributed to the water management districts as provided in subsection (11). A minimum of 50 percent of the total funds provided over the life of the Florida Forever program pursuant to this paragraph shall be used for the acquisition of lands.

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. Capital project expenditures may not exceed 10 percent of the funds allocated pursuant to this paragraph.

(c) Twenty-two percent to the Department of Community Affairs for use by the Florida Communities Trust for the purposes of part III of chapter 380, as described and limited by this subsection, and grants to local governments or nonprofit environmental organizations that are tax exempt under s. 501(c)(3) of the United States Internal Revenue Code for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. From funds available to the trust and used for land acquisition, 75 percent shall be matched by local governments on a dollar-for-dollar basis. The Legislature intends that the Florida Communities Trust emphasize funding projects in low-income or otherwise disadvantaged communities. At least 30 percent of the total allocation provided to the trust shall be used in Standard Metropolitan Statistical Areas, but one-half of that amount shall be used in localities in which the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas. From funds allocated to the trust, no less than 5 percent shall be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects. Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for acquisitions funded through the Florida Communities Trust. Any lands purchased by nonprofit organizations using funds allocated under this paragraph must provide for such lands to remain permanently in public use through a reversion of title to local

or state government, conservation easement, or other appropriate mechanism. Projects funded with funds allocated to the Trust shall be selected in a competitive process measured against criteria adopted in rule by the Trust.

(d) Two percent to the Department of Environmental Protection for grants pursuant to s. 375.075.

(e) One and five-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks and for capital project expenditures as described in this section. Capital project expenditures may not exceed 10 percent of the funds allocated under this paragraph. For the purposes of this paragraph, "state park" means any real property in the state which is under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(f) One and five-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures as described in this section. Capital project expenditures may not exceed 10 percent of the funds allocated under this paragraph.

(g) One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures as described in this section. Capital project expenditures may not exceed 10 percent of the funds allocated under this paragraph.

(h) One and five-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures as described in this section. Capital project expenditures may not exceed 10 percent of the funds allocated under this paragraph.

(i) It is the intent of the Legislature that proceeds of Florida Forever bonds distributed under this section shall be expended in an efficient and fiscally responsible manner. An agency that receives proceeds from Florida Forever bonds under this section may not maintain a balance of unencumbered funds in its Florida Forever subaccount beyond 3 fiscal years from the date of deposit of funds from each bond issue. Any funds that have not been expended or encumbered after 3 fiscal years from the date of deposit shall be distributed by the Legislature at its next regular session for use in the Florida Forever program.

(j) For the purposes of paragraphs (d), (e), (f), and (g), the agencies which receive the funds shall develop their individual acquisition or restoration lists. Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(9)(d). Proposed additions not meeting the requirements of this paragraph shall be submitted to the Acquisition and Restoration Council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.

(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraphs (3)(a) and (b) contribute to the achievement of the following goals:

(a) Enhance the coordination and completion of land acquisition projects, as measured by:

1. The number of acres acquired through the state's land acquisition programs that contribute to the completion of Florida Preservation 2000 projects or projects begun before Preservation 2000;

2. The number of acres protected through the use of alternatives to fee simple acquisition; or

3. The number of shared acquisition projects among Florida Forever funding partners and partners with other funding sources, including local governments and the Federal Government.

(b) Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels, as measured by:

1. The number of acres acquired of significant strategic habitat conservation areas;

2. The number of acres acquired of highest priority conservation areas for Florida's rarest species;

3. The number of acres acquired of significant landscapes, landscape linkages, and conservation corridors, giving priority to completing linkages;

4. The number of acres acquired of underrepresented native ecosystems;

5. The number of landscape-sized protection areas of at least 50,000 acres that exhibit a mosaic of predominantly intact or restorable natural communities established through new acquisition projects or augmentations to previous projects; or

6. The percentage increase in the number of occurrences of endangered species, threatened species, or species of special concern on publicly managed conservation areas.

(c) Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state, as measured by:

1. The number of acres of publicly owned land identified as needing restoration, acres undergoing restoration, and acres with restoration activities completed;

2. The percentage of water segments that fully meet, partially meet, or do not meet their designated uses as reported in the Department of Environmental Protection's State Water Quality Assessment 305(b) Report;

3. The percentage completion of targeted capital improvements in surface water improvement and management plans created under s. 373.453(2), regional or master stormwater management system plans, or other adopted restoration plans;

4. The number of acres acquired that protect natural floodplain functions;

5. The number of acres acquired that protect surface waters of the state;

6. The number of acres identified for acquisition to minimize damage from flooding and the percentage of those acres acquired;

7. The number of acres acquired that protect fragile coastal resources;

8. The number of acres of functional wetland systems protected;

9. The percentage of miles of critically eroding beaches contiguous with public lands that are restored or protected from further erosion;

10. The percentage of public lakes and rivers in which invasive, nonnative aquatic plants are under maintenance control; or

11. The number of acres of public conservation lands in which upland invasive, exotic plants are under maintenance control.

(d) Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by:

1. The number of acres acquired which provide retention and storage of surface water in naturally occurring storage areas, such as lakes and wetlands, consistent with the maintenance of water resources or water supplies and consistent with district water supply plans;

2. The quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible; or

3. The number of acres acquired of groundwater recharge areas critical to springs, sinks, aquifers, other natural systems, or water supply.

(e) Increase natural resource-based public recreational and educational opportunities, as measured by:

1. The number of acres acquired that are available for natural resource-based public recreation or education;

2. The miles of trails that are available for public recreation, giving priority to those that provide significant connections including those that will assist in completing the Florida National Scenic Trail; or

3. The number of new resource-based recreation facilities, by type, made available on public land.

(f) Preserve significant archaeological or historic sites, as measured by:

1. The increase in the number of and percentage of historic and archaeological properties listed in the Florida Master Site File or National Register of Historic Places which are protected or preserved for public use; or

2. The increase in the number and percentage of historic and archaeological properties that are in state ownership.

(g) Increase the amount of forestland available for sustainable management of natural resources, as measured by:

1. The number of acres acquired that are available for sustainable forest management;

2. The number of acres of state-owned forestland managed for economic return in accordance with current best management practices;

3. The number of acres of forestland acquired that will serve to maintain natural groundwater recharge functions; or

4. The percentage and number of acres identified for restoration actually restored by reforestation.

(h) Increase the amount of open space available in urban areas, as measured by:

1. The percentage of local governments that participate in land acquisition programs and acquire open space in urban cores; or

2. The percentage and number of acres of purchases of open space within urban service areas.

Florida Forever projects and acquisitions funded pursuant to paragraph (3)(c) shall be measured by goals developed by rule by the Florida Communities Trust Governing Board created in s. 380.504.

(5)(a) All lands acquired pursuant to this section shall be managed for multiple-use purposes, where compatible with the resource values of and management objectives for such lands. As used in this section, "multiple-use" includes, but is not limited to, outdoor recreational activities as described in ss. 253.034 and 259.032(9)(b), water resource development projects, and sustainable forestry management.

(b) Upon a decision by the entity in which title to lands acquired pursuant to this section has vested, such lands may be designated single use as defined in s. 253.034(2)(b).

(6) As provided in this section, a water resource or water supply development project may be allowed only if the following conditions are met: minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project; the project complies with all applicable permitting requirements; and the project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies if required pursuant to s. 373.0421(2).

(7)(a) Beginning no later than July 1, 2001, and every year thereafter, the Acquisition and Restoration Council shall accept applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for funding pursuant to paragraph (3)(b). The council shall evaluate the proposals received pursuant to this subsection to ensure that they meet at least one of the criteria under subsection (9).

(b) Project applications shall contain, at a minimum, the following:

1. A minimum of two numeric performance measures that directly relate to the overall goals adopted by the council. Each performance measure shall include a baseline measurement,

which is the current situation; a performance standard which the project sponsor anticipates the project will achieve; and the performance measurement itself, which should reflect the incremental improvements the project accomplishes towards achieving the performance standard.

2. Proof that property owners within any proposed acquisition have been notified of their inclusion in the proposed project. Any property owner may request the removal of such property from further consideration by submitting a request to the project sponsor or the Acquisition and Restoration Council by certified mail. Upon receiving this request, the council shall delete the property from the proposed project; however, the board of trustees, at the time it votes to approve the proposed project lists pursuant to subsection (16), may add the property back on to the project lists if it determines by a super majority of its members that such property is critical to achieve the purposes of the project.

(c) The title to lands acquired under this section shall vest in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands acquired by a water management district shall vest in the name of that district and lands acquired by a local government shall vest in the name of the purchasing local government.

(8) The Acquisition and Restoration Council shall develop a project list that shall represent those projects submitted pursuant to subsection (7).

(9) The Acquisition and Restoration Council shall recommend rules for adoption by the board of trustees to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(b) and for additions to the Conservation and Recreation Lands list pursuant to ss. 259.032 and 259.101(4). In developing these proposed rules, the Acquisition and Restoration Council shall give weight to the following criteria:

(a) The project meets multiple goals described in subsection (4).

(b) The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

(c) The project enhances or facilitates management of properties already under public ownership.

(d) The project has significant archaeological or historic value.

(e) The project has funding sources that are identified and assured through at least the first 2 years of the project.

(f) The project contributes to the solution of water resource problems on a regional basis.

(g) The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.

(h) The project implements an element from a plan developed by an ecosystem management team.

(i) The project is one of the components of the Everglades restoration effort.

(j) The project may be purchased at 80 percent of appraised value.

(k) The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights or obtaining conservation easements or flowage easements.

(l) The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.

(10) The Acquisition and Restoration Council shall give increased priority to those projects for which matching funds are available and to project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.

(11) For the purposes of funding projects pursuant to paragraph (3)(a), the Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

(a) Thirty-five percent to the South Florida Water Management District, of which amount $25 million for 2 years beginning in fiscal year 2000-2001 shall be transferred by the Department of Environmental Protection into the Save Our Everglades Trust Fund and shall be used exclusively to implement the comprehensive plan under s. 373.470.

(b) Twenty-five percent to the Southwest Florida Water Management District.

(c) Twenty-five percent to the St. John's River Water Management District.

(d) Seven and one-half percent to the Suwannee River Water Management District.

(e) Seven and one-half percent to the Northwest Florida Water Management District.

(12) It is the intent of the Legislature that in developing the list of projects for funding pursuant to paragraph (3)(a), that these funds not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Therefore, an increased priority shall be given by the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(13) An affirmative vote of five members of the Acquisition and Restoration Council shall be required in order to place a proposed project on the list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest prior to voting for a project's inclusion on the list.

(14) Each year that bonds are to be issued pursuant to this section, the Acquisition and Restoration Council shall review the most current approved project list and shall, by the first board meeting in May, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects developed pursuant to subsection (8). The board of trustees may remove projects from the list developed pursuant to this subsection, but may not add projects or rearrange project rankings.

(15) The Acquisition and Restoration Council shall submit to the board of trustees, with its list of projects, a report that includes, but shall not be limited to, the following information for each project listed:

(a) The stated purpose for inclusion.

(b) Projected costs to achieve the project goals.

(c) An interim management budget.

(d) Specific performance measures.

(e) Plans for public access.

(f) An identification of the essential parcel or parcels within the project without which the project cannot be properly managed.

(g) Where applicable, an identification of those projects or parcels within projects which should be acquired in fee simple or in less than fee simple.

(h) An identification of those lands being purchased for conservation purposes.

(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(9)(d).

(j) An estimate of land value based on county tax assessed values.

(k) A map delineating project boundaries.

(l) An assessment of the project's ecological value, outdoor recreational value, forest resources, wildlife resources, ownership pattern, utilization, and location.

(m) A discussion of whether alternative uses are proposed for the property and what those uses are.

(n) A designation of the management agency or agencies.

(16) All proposals for projects pursuant to paragraph (3)(b) or subsection (20) shall be implemented only if adopted by the Acquisition and Restoration Council and approved by the board of trustees. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for Florida Forever funding and each proposed addition to the Conservation and Recreation Lands list program. The council shall ensure that each proposed project will meet a stated public purpose for the restoration, conservation, or preservation of environmentally sensitive lands and water areas or for providing outdoor recreational opportunities and that each proposed addition to the Conservation and Recreation Lands list will meet the public purposes under s. 259.032(3) and, when applicable, s. 259.101(4). The council also shall determine whether the project or addition conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of this section.

(17)(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of certain lands acquired pursuant to this section, for certain uses that are determined by the appropriate board to be compatible with the resource values of and management objectives for such lands.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to this section shall be presumed to be compatible with the purposes for which such lands were acquired.

(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, pursuant to Internal Revenue Service regulations.

(18) The Acquisition and Restoration Council shall recommend adoption of rules by the board of trustees necessary to implement the provisions of this section relating to: solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2001 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.

(19) Lands listed as projects for acquisition under the Florida Forever program may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements, or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Conservation and Recreation Lands Trust Fund and Water Management Lands Trust Fund. No more than 5 percent of funds allocated under the trust funds shall be expended for this purpose.

(20) The Acquisition and Restoration Council, as successors to the Land Acquisition and Management Advisory Council, may amend existing Conservation and Recreation Lands projects and add to or delete from the 2000 Conservation and Recreation Lands list until funding for the Conservation and Recreation Lands program has been expended. The amendments to the 2000 Conservation and Recreation Lands list will be reported to the board of trustees in conjunction with the council's report developed pursuant to subsection (15).

**History.**--s. 21, ch. 99-247; s. 3, ch. 2000-129; s. 32, ch. 2000-152; s. 11, ch. 2000-170; s. 1, ch. 2001-275; s. 3, ch. 2002-261; s. 66, ch. 2003-399; s. 12, ch. 2005-3.

**259.1051 Florida Forever Trust Fund.**--

(1) There is created the Florida Forever Trust Fund to carry out the purposes of ss. 259.032, 259.105, and 375.031. The Florida Forever Trust Fund shall be held and administered by the Department of Environmental Protection. Proceeds from the sale of bonds, except proceeds of refunding bonds, issued under s. 215.618 and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a), not to exceed $3 billion, must be deposited into this trust fund to be distributed and used as provided in s. 259.105(3). The bond resolution adopted by the governing board of the Division of Bond Finance of the State Board of Administration may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Forever Trust Fund only to programs of state agencies or local governments as set out in s. 259.105(3). Excluding distributions to the Save Our Everglades Trust Fund, the distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

(3) The Department of Environmental Protection shall ensure that the proceeds from the sale of bonds issued under s. 215.618 and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a) shall be administered and expended in a manner that ensures compliance of each issue of bonds that are issued on the basis that interest thereon will be excluded from gross income for federal income tax purposes, with the applicable provisions of the United States Internal Revenue Code and the regulations promulgated thereunder, to the extent necessary to preserve the exclusion of interest on the bonds from gross income for federal income tax purposes. The Department of Environmental Protection shall administer the use and disbursement of the proceeds of such bonds or require that the use and disbursement thereof be administered in a manner to implement strategies to maximize any available benefits under the applicable provisions of the United States Internal Revenue Code or regulations promulgated thereunder, to the extent not inconsistent with the purposes identified in s. 259.105(3).

**History.**--s. 1, ch. 99-246; s. 4, ch. 2000-129.

# Appendix B

**Florida Administrative Code**
**Chapter 18-2, Management of Uplands Vested in the Board of Trustees**

## Chapter 18-2 MANAGEMENT OF UPLANDS VESTED IN THE BOARD OF TRUSTEES



**18-2.017 Definitions.**

When used in this rule Chapter, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) “Activity” means any use of uplands which requires Trustees’ approval for consent of use, lease, management and use agreements, easement, disposal, exchange or transfer of any interest, including sub-surface, in uplands.

(2) “Agency” means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit or entity of government.

(3) “Applicant” means any person making application for any activity involving uplands.

(4) “Appraisal” means a formal narrative statement or report setting forth and documenting an opinion of value of real property as of a specific date.

(5) “Assignment” means a transfer of one’s use, right or interest from one person to another person.

(6) “Authorization” means the permission granted by the Board of Trustees for a person to construct a facility or to carry out an activity on uplands.

(7) “Beach” means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves). Unless otherwise specified, the seaward limit of a beach is the mean low water line. “Beach” is alternatively termed the shore.

(8) “Best management practices” means methods, measures or practices that are developed, selected, or approved by agencies to protect, enhance and preserve natural resources. They include, but are not limited to, engineering,

conservation, and management practices for mining, agriculture, silviculture, and other land uses, that are designed to conserve the soil and associated nutrients while simultaneously controlling nonpoint pollution to provide good overall upland management.
(9) "Board" means the Board of Trustees of the Internal Improvement Trust Fund.
(10) "Bonus" means a one time payment offered by competitive bid on which the award of an oil or gas lease is based.
(11) "C.A.R.L." means Conservation and Recreation Lands, as specified in Section 259.032, F.S.
(12) "Consideration" means something of value given in exchange as part of a legal agreement.
(13) "Convey" means to transfer title or interest in land from one party to another for consideration.
(14) "Conveyance" means an instrument or transfer of title of land from one party to another.
(15) "Cooperating agency" means a lessee which, as party to a multiple state agency lease, has designated management responsibilities to be carried out under the guidance of the lead agency so that each party utilizes its particular expertise in order to achieve the management goal.
(16) "Cooperative management" means single or multiple use management by more than one agency so that each utilizes its particular expertise in order to achieve a particular management goal.
(17) "Council" means the Land Management Advisory Council pursuant to Section 253.022, F.S.
(18) "Department" means the State of Florida Department of Environmental Protection.
(19) "Development of Regional Impact (DRI)" means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.
(20) "Division" means the Division of State Lands.
(21) "Dry hole" means a dry well which has been plugged and abandoned without ever having produced hydrocarbons in commercial quantities.
(22) "Easement" means a nonpossessory interest in uplands created by a grant or agreement, which confers upon the applicant the limited right, liberty and privilege to use uplands for a specific purpose, term and fee.
(23) "E.E.L." means Environmentally Endangered Lands, as specified in Chapter 259, F.S.
(24) "Everglades Agricultural Area" means that area which is described on the map entitled "Everglades Agricultural Area", filed in the office of the Secretary of State as Exhibit A to this rule and made an integral part hereof.
(25) "Factual or physical exploration results" means all data and information gathered as the result of any and all operations conducted under a geophysical testing use agreement.
(26) "Fine" means a monetary assessment imposed, pursuant to Section 253.04, F.S., on a person or the agent of a person who willingly damages state lands, willfully damages or removes products of state lands in violation of state or federal law, or knowingly refuses to comply with or willfully violates Chapter 253, F.S., or the rules of the Division.
(27) "Geophysical testing" means the use of gravity, seismic and similar geophysical techniques to obtain information and data on oil, gas or other resources.
(28) "Historic resources" means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, or any part thereof, relating to the history, government, or culture of the state.
(29) "L.A.T.F." means the Land Acquisition Trust Fund as specified in Chapter 375, F.S.
(30) "Lead agency" means that agency designated by the Board as being responsible for coordinating the development of a management plan for a cooperative management area with input from cooperating agencies pursuant to the terms of the management agreement/multiple agency lease.
(31) "Lease" means an interest in lands designated by a contract creating a landlord-tenant relationship between the Board as landlord and the applicant as tenant whereby the Board grants and transfers to the agency the exclusive use, possession, and control of certain specified lands, for a determinate number of years, with conditions attached. On those properties which considerable capital improvements are to be made, the term of a lease shall be limited to the expected amortization or life cycle of the improvements.
(32) "Letter of Consent" means a nonpossessory form of authorization that allows the applicant the right to erect specific structures or conduct specific activities on uplands.
(33) "L.W.C.F." means the Land and Water Conservation Fund established under the federal Land and Water Conservation Act of 1965.
(34) "Management agreement/multiple agency lease" means the legal instrument by which the management purpose(s) of a property and the responsibilities of each managing party are delineated in a cooperative management situation. It is a contractual agreement between the Board and one or more agencies which does not create an interest in real property but merely authorizes conduct of certain management activities on lands owned by the Board.
(35) "Market Value" means the most probable price for which an appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently and knowledgeably, and assuming that neither is under undue duress.
(36) "Mean high water line" means the intersection of the tidal plane of mean high water with the shore. This is the boundary between sovereignty submerged land and the adjacent upland along tidal waterbodies.
(37) "Mitigation" means an action or series of actions which would offset adverse impacts of a proposed activity involving uplands.
(38) "Multiple use" means management for two or more primary purposes in order to insure that the greatest possible

combination of public benefits are derived from the use of State lands. These uses may include, but are not limited to management for: timber, wildlife habitat, forage, open space, recreation, public facilities, archaeological and historic sites, or water resources. Individual resources in multiple use management areas may be managed at less than full potential in order to provide the most beneficial combination of uses.
(39) "Net positive benefit" means any effective action or transaction which promotes the overall purposes for which the land was acquired. It is compensation over and above the required payment of market value for or replacement of the affected parcel to offset any requested use or activity which would preclude or affect, in whole or in part, current or uture uses of natural resource lands that are managed primarily for the conservation and protection of natural, historical or recreational resources. Net positive benefit shall not be solely monetary compensation, but shall include mitigation and other consideration related to environmental, historical of recreational benefits, as applicable, to the affected management unit.
(40) "Ordinary high water line" means the boundary between uplands and submerged lands beneath non-tidal navigable natural water bodies.
(41) "Person" means any individual, corporation, partnership, firm, association, joint venture, estate, trust, business trust, syndicate, fiduciary, commission, county, municipality or political subdivision of a state, any interstate body, the federal government, or any subdivision thereof and all other groups or combinations, whether public or private.
42) "Plan" means a management plan as required by Section 253.034, F.S.

(43) "Policies" means guidelines for the decision-making process whereby programs, services and actions of the State are implemented, consistent with existing law.
(44) "Preliminary Development Agreement (PDA)" means a written agreement between the developer and the Department of Community Affairs to allow the developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk. This written agreement is entered into prior to issuance of a final development order which grants, denies or denies with conditions an application for a development permit.
(45) "Private" means affecting or belonging to private individuals, as distinguished from the public in general and not belonging to the public sector or a unit of government.
(46) "Processed records" means data collected under the term of a use agreement for geophysical testing. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Processing shall not include the interpretation of any data collection.
(47) "Producing" means the yielding of product including oil, gas, minerals, crops and livestock from Trustees owned uplands.
(48) "Property" means land and permanent improvements that are located there on and affixed thereto.
(49) "Public interest" means demonstrable environmental, social, historical and economic benefits which would accrue to the public in general as a result of a proposed activity and which would clearly exceed all demonstrable environmental, social, historical and economic costs of the proposed activity.
(50) "Release" means the relinquishment, concession or giving up of a right, claim or privilege by the party for whom it exists or to whom it accrues.
(51) "Royalty" means the percentage of the value of a natural resource paid to the owner of the resource by those extracting and selling it.
(52) "Rule" means a rule adopted pursuant to Chapter 120, F.S.
(53) "Satisfactory evidence of title" means a current title insurance policy or current title insurance binder or commitment, not more than 6 months old, issued by a title insurance company authorized to do business in the State of Florida or an opinion of title prepared by a member of the Florida Bar, covering title to the lands involved and indicating any mineral or other interest.
(54) "Single use" means management for one primary purpose. Single use properties may be managed for compatible secondary uses as long as those uses do not interfere or detract from the designated primary purpose. Single use properties will most often be managed by a single agency but may be placed under cooperative management if the expertise of two or more agencies is required to carry out the primary purpose.
(55) "S.O.C." means Save Our Coast, as specified in Chapter 375, F.S.
(56) "Sole management" means management by one agency on a single or multiple use management tract.
(57) "State agency" means each department created pursuant to Chapter 20, F.S.
(58) "State land" as used in this rule means land to which the title is vested in the Board.
(59) "State Lands Management Plan" means the Conceptual State Lands Management Plan and any subsequent revisions which shall be approved by the Trustees.
(60) "Sublease" means a lesser than leasehold interest in lands executed by the lessee to a third party for a definite time period with specific conditions attached.
(61) "Surplus lands" means lands which are not needed by any State agency, and are recommended for disposal, pursuant to Rule 18-2.021, F.A.C.

(62) "Trustees" means the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida or its designated agents.
(63) "Uplands" means those lands above the mean high water line or ordinary high water line title to which is vested in the Trustees.
(64) "Use agreement" means a grant or agreement which confers upon the applicant a nonexclusive and limited right, liberty and privilege to use uplands for a specific purpose and for a specific time and does not create a title interest in real property.
(65) "Water conservation areas" means those areas which are described on the map entitled "Conservation Areas", attached as Exhibit C to this rule and made an integral part thereof.
*Specific Authority 253.03 FS. Law Implemented 253.03, 253.034, 259.035 FS. History–New 6-4-96.*

**18-2.018 Policies, Standards, and Criteria for Evaluating, Approving or Denying Requests to Use Uplands.**
Applications to use Trustees-owned uplands and decisions to approve or reject such applications will be based on all of the following:
(1) Public Interest Evaluation
(a) The decision to authorize the use of Trustees-owned uplands requires a determination that such use is not contrary to the public interest. The public interest determination requires an evaluation of the probable impacts of the proposed activity on the uplands. All direct and indirect impacts related to the proposed activity as well as the cumulative effects of those impacts shall be taken into consideration. Relevant factors to be considered include: conservation, general environmental and natural resource concerns, wetlands values, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, recreation, aesthetics, economics, public health and safety, relative extent of the public need for the proposed use or activity, reasonable alternative locations and methods to accomplish the objective of the proposed use or activity, potential detrimental effects on the public uses to which the area is otherwise suited, the effect on cultural, scenic and recreational values, and the needs and welfare of the people.
(2) General Policies
(a) Uplands may be leased or subleased, managed by use agreement, encumbered by easements or licenses, disposed of to either the public or private sector, or may be retained and managed by the division.
(b) All uplands shall be administered, managed, or disposed of in a manner that will provide the greatest combination of benefits to the general public.
(c) Any use of uplands must comply with specific statutory or legislative mandates or other legal restrictions governing the property.
(d) Any approval granted for any activity on uplands shall contain such terms, conditions, and restrictions as deemed necessary to provide for responsible management that will protect and enhance uplands.
(e) The Board will not grant any form of authorization for a period greater than is necessary to provide for reasonable use of the land for the existing or planned life cycle or amortization of the improvements.
(f) Any authorization to use uplands shall be subject to cancellation if the applicant converts the facility to a use that was not authorized or if the land ceases to be used for the purpose which was approved. In addition, the Trustees may require removal of the structure and restoration of parcel to its natural state, and administrative fines and damages as stipulated by rule.
(g) Unless otherwise provided herein, no activity may commence until the authorizing document is executed by the Department.
(h) All activities on uplands shall implement applicable best management practices that have been selected, developed, or approved by the Trustees or other land managing agencies.
(i) Equitable compensation shall be required when the use of uplands will generate income or revenue for a private user or will limit or preempt use by the general public. The Trustees shall award authorization for such uses on the basis of competitive bidding rather than negotiation unless otherwise provided herein or determined by the Trustees to be in the public interest pursuant to the results of an evaluation of the impacts, both direct and indirect, which may occur as a result of the proposed use. Relevant factors to be considered in the evaluation shall include those specified in subsection 18-2.018(1), F.A.C. The Trustees shall make its final determination at a regularly scheduled meeting of the Governor and Cabinet. The Trustees reserve the right to reject any and all bids.
(j) The successful bidder shall pay all costs of legal advertisement, appraisal, title work, taxes or assessments for any activity requiring such items.
(k) Appraisals shall be utilized to establish market value and said appraisals shall be reviewed and accepted by the division as being a reasonable approximation of market value.
(l) Single use properties may be managed for compatible secondary uses as long as those uses do not interfere with or detract from the designated primary purpose.
(m) Individual resources on multiple use properties may be managed at less than full potential in order to provide the most beneficial combination of uses.
(n) It shall be the Trustees policy to provide for public access upon uplands to the greatest extent practicable unless the Trustees determine that public access is not in the public interest or conflicts with the parcel's management criteria or plan.
(o) Requests by local governmental agencies for any activity on uplands shall be by formal action by the appropriate governing board.

(p) All authorizations must contain a provision allowing for access for inspection by department staff.
(3) Standards and Criteria
(a) Leases and Subleases
1. Unless determined by the Trustees to be in the public interest, the term of any lease or sublease shall not exceed a maximum term of fifty years. Specific terms are as follows:
a. Sublease terms shall not exceed 50 years or a period conterminous with the principal lease if the remaining lease term is less than 50 years.
b. The standard lease term for agricultural or grazing leases shall be six years.
c. Oil, gas, and other mineral interest leases shall be limited to a primary term of ten years.
2. Leases and subleases shall be noticed pursuant to Chapter 18-2, F.A.C., and applicable law.
3. Lessees and sublessees shall be responsible for acquiring all permits and paying any and all ad valorem taxes, drainage, special assessments or other taxes.
4. Lessees and sublessees shall be required to provide level one environmental reports and information regarding uses of land which may involve hazardous or toxic waste.
5. Lessees and sublessees shall be responsible for preparing either a management plan or an operational report as follows:
a. All state agency lessees and sublessees, through the sublessor, shall prepare and submit to the division parcel-specific management plans in accordance with Rule 18-2.021. No physical alteration of the leased premises shall occur unless such activity has been authorized via an approved management plan.
b. All other lessees except agriculture, grazing and oil and gas lessees shall prepare a site-specific operational report which shall be prepared and submitted to the division by lessee within a year of lease execution or other dates as designated in the lease. The operational report shall include the following:
I. The common name of the property, if any;
II. A map showing the approximate location and boundaries of the property, the location of any structures or improvements to the property, and a statement as to whether the property is adjacent to an aquatic preserve or a designated area of critical state concern or an area under study for such designation;
III. The legal description and acreage of the property;
IV. The land acquisition program (e.g., C.A.R.L., E.E.L., L.A.T.F.), if any, under which the property was acquired;
V. The designated single or multiple use management for the property, including use by other managing entities;
VI. The approximate location and description of known renewable and non-renewable resources of the property including archaeological and historical resources; fish and wildlife resources, both game and non-game; mineral resources (such as oil, gas, phosphate, etc.); and natural resources (such as virgin timber stands, scenic vistas, rivers, streams, etc.);
VII. A description of past and existing uses, including unauthorized uses of the property;
VIII. A description of alternative or multiple uses of the property considered by the lessee and a statement detailing why such uses were not adopted;
IX. An assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a description of the specific actions that will be taken to protect, enhance and conserve those resources and to compensate/mitigate the damage that is caused by such use;
X. A description of management needs and problems on the property;
XI. A description of the management responsibilities of each entity and how such responsibilities will be coordinated;
XII. A statement concerning the extent of public involvement and local government participation, if any, in the development of the plan; and
XIII. A statement of gross income generated, net income and expenses.
c. For agricultural and grazing leases, a certified agricultural operational report, documenting the status of operations on the leases area, shall be submitted to the division annually, one month prior to the end of the lease year. Such report shall include, at a minimum, the following:
I. The kind and location of the crop or livestock grown;
II. The stewardship practices utilized;
III. The capital improvements completed;
IV. A schedule for installing future improvements;
V. Types and amounts or pesticides, herbicides, and fertilizers used; and
VI. A detailed description of how the implementation of best management practices were carried out during the lease year including, but not limited to, muck soil measurement and plans for best management practices for the following year.
d. Oil, gas, or mineral lessees shall provide a notarized annual report to the Trustees in accordance with Section 253.511, F.S., documenting the status of operations on the leased area. Failure to submit this report within 90 days following the anniversary of the respective lease shall be grounds for termination in accordance with the terms and conditions of the lease.
6. Additional specific criteria for subleases are as follows:
a. Subleases shall be in compliance with the lease and management plan or operational report for the master lease.
b. Subleases which are 160 acres or greater in size shall be reviewed by the Council.

7. Additional specific criteria for agricultural and grazing leases are as follows:
a. New agricultural lessees shall totally compensate the vacating lessees for ratoon, stubble or other residual crops.
b. Site-specific minimum stewardship measures shall be required.
c. The lessee will not cause or allow damage to the leased premises or remove soil, sod, muck, or other materials from the leases premises.
8. Additional specific criteria for oil and gas leases are as follows:
a. After the cessation of any oil, gas, or mineral lease, the site shall be restored by the lessee to the original condition to the greatest extent practicable.
b. An oil and gas lease within the corporate limits of any municipality; or, in the tidal waters abutting or immediately adjacent to the corporate limits of a municipality; or, within 3 miles of the corporate limits of a municipality may be approved only if a resolution of approval has been received from the municipality. In addition, a public hearing, in the vicinity of the lease, must be held if the lease is within 3 miles of an incorporated city, town or, beach.
c. An oil and gas lease on an improved beach, as defined in Section 253.61, F.S., located outside of an incorporated town or municipality; or, abutting or immediately adjacent to an improved beach within the tidal waters of the state; or, within 3 miles of an improved beach into such tidal waters of the state, may be approved only if a resolution of approval has been received from the county within which the beach is situated.
d. Applicants for mineral leases, other than oil and gas, shall obtain written consent from the owners of the surface overlying the mineral interest.
e. Commencement of the required mitigation or other action necessary to satisfy net positive benefit will be required only if and when the lessee conducts any physical activity on the surface of the leased property or if the grant of rights under the oil and gas lease precludes or affects the use of the surface of the leased property for any use other than oil and gas exploration.
f. Drilling, exploration, or production of oil and gas is prohibited within the boundaries of the South Florida Water Management District's water conservation areas on lands where title is vested in the Trustees.
g. Oil, gas or mineral leases shall clearly specify the particular mineral to be drilled or mined and the manner in which it may be extracted.
h. Prior to extracting any oil, gas, or minerals, lessees may be required to provide financial security against damages caused by its activities on uplands. Examples of acceptable forms of security include a surety or property bond, an irrevocable letter of credit, or payment into the Department of Environmental Protection's Petroleum Exploration and Production Bond Trust Fund. Examples of factors to be considered by the Trustees in determining whether to require such security include: the potential for air, water, or ground pollution; destruction of wildlife or marine productivity; and damage which impairs the health and general welfare of the citizens of the state. Such security as provided in Section 253.571, F.S., shall be forfeited to the Trustees to pay for any damages caused by such mining or drilling activities. The department shall notify the lessee and give lessee time to take corrective action before applying the security to correct the violation. Should the lessee not respond in the time provided, or if an emergency situation exists, the department shall take immediate remedial or corrective action without further notice.
i. Lessees shall complete the drilling of at least one test well on the leased area within the first 2 1/2 years of the lease term and complete drilling of at least one additional well every 2 1/2 years thereafter until the total number of wells drilled equals one half the number of sections encompassed in the lease. The lessee shall provide a written designation describing the two sections of land to which such well shall apply. For purposes of this provision a well drilled on lands validly pooled with state leasehold acreages shall be considered to have been drilled on the respective Trustees' lease.
j. If no test well for an oil or gas lease is completed within the first 2 1/2 years of the lease term or each succeeding 2 1/2 year period, the lease shall become void at the end of the applicable 2 1/2 year period as to all of the land covered by the lease, except for that upon which wells have been drilled in accordance with the provisions of Section 253.55, F.S.
k. Wells required in the several periods of said lease shall be drilled in accordance with the provisions of Chapter 253, F.S., in an efficient, diligent and workmanlike manner, and in accordance with the best practice, to a depth of 6000 feet before the abandonment thereof, unless oil or gas has been found in paying quantities at a lesser depth.
l. Drilling operations shall be conducted in accordance with the provisions of Section 253.55, F.S.
m. The 2 1/2 year drilling periods described in j. and k. above shall be extended upon documentation by the applicant prior to expiration that additional time is necessary to obtain all permits. Such additional time may not exceed one year.
(b) Disposal of Trustees-owned Uplands
1. Examples of conditions under which the Trustees may convey an upland parcel include:
a. The parcel was vested in the state pursuant to Chapter 18296, Laws of Florida , 1937 (Murphy Act), and is 5 acres or less in size and has a market value of $100,000 or less; or
b. The parcel has been designated surplus pursuant to Chapter 253.034, F.S.; or
c. The Trustees determine that conveyance of the parcel by sale, gift or exchange provides a greater benefit to the public than its retention in state ownership.
2. Parcels to be conveyed pursuant to this subsection shall be noticed in accordance with Chapter 18-2, F.A.C., and applicable law.
3. Conveyance of property pursuant to this section shall be in accordance with the following requirements:
a. Property and improvements shall be sold "as is", with no warranties nor representations whatsoever.

b. The cost of title insurance, documentary stamp tax, recording fees, any property taxes due, abstract, title certificate, survey, appraisal, legal advertisement and purchaser's legal fees shall be the responsibility of the purchaser.
c. Property shall be conveyed by quitclaim deed without warranties and shall reserve or contain a reservation prescribed in Section 270.11, F.S., unless waived by the Trustees pursuant to Section 270.11(2)(a), F.S., or exempt from the requirement for reservation pursuant to subsection 253.03(3) or Section 253.62, F.S.
d. Closings shall be in accordance with a sales contract executed by the Trustees.
4. A state agency or the Division may apply for an exchange of state-owned uplands for a parcel of privately-owned uplands by certifying:
a. That it needs a parcel of private land for a particular use; and
b. That it manages uplands vested in the Trustees which it wishes to use for a state agency exchange. If no uplands managed by the state agency can be identified as excess to its management needs, then uplands which have been selected through the land disposal process may be used instead.
5. Other governmental agencies may apply for an exchange by:
a. Certifying that they need a parcel of Trustees-owned uplands for a specific project; and
b. Certifying that they own or can acquire exchange property suitable to the Trustees.
6. Exchanges may be applied for by private landowners only if they own or can acquire land on an approved state acquisition list and the parcel sought by the private landowner has been selected for conveyance through the land disposal process.
(c) Use Agreements
1. Use agreements may be executed when it is determined that the use or management of uplands does not require a lease, sublease, easement, or other similar form of approval.
2. Use agreements shall be limited to a term of five years.
3. Geophysical testing agreements shall be limited to a term of one year.
4. Geophysical testing on uplands shall require a use agreement from the Trustees and a permit for geophysical testing acquired from the Bureau of Geology, Department of Environmental Protection pursuant to Chapter 62C-26, F.A.C.
5. A separate approval for geophysical testing shall not be required when geophysical operations are conducted by the current leaseholder upon land subject to a valid oil, gas or mineral lease granted by the Trustees.
6. The protection of uplands from unnecessary environmental damage shall be achieved by requiring all parties who conduct geophysical testing to strictly follow the Bureau of Geology's guidelines, procedures, and operational requirements for geophysical testing as specified in Chapters 62C-25 and 62C-26, F.A.C.
7. After completion of any geophysical testing upon uplands, the parcel shall be returned to the original condition prior to the conducting of geophysical testing.
8. Geophysical testing for oil and gas within the boundaries of the South Florida Water Management District's water conservation areas on lands where title is vested in the Trustees is prohibited.
9. The applicant for a geophysical use agreement shall submit a field operations report to the Department of Environmental Protection, Bureau of Geology, within thirty days after the completion of any survey activities conducted under a geophysical testing use agreement. The report shall contain the following:
a. A narrative description of the work performed, including the type of data obtained and the types of logs produced from the operations;
b. Maps, plats or charts indicating the area in which any exploration was conducted, specifically identifying the lines of geophysical traverses and/or locations where geophysical exploration was conducted, accompanied by a reference sufficient to identify the data produced from each activity;
c. The dates and times during which the actual exploration was performed;
d. The nature and location of any environmental hazards created by the activity;
e. A description of any damage to or loss of state property which resulted from the reported activities; and
10. Upon written request, the applicant shall provide to the Bureau of Geology, at no cost, one copy of the information described in paragraphs a. through c. below, if available. Where possible, the information may be furnished in the form of paper copies as opposed to mylar, film or tape. Duplicates shall be furnished upon request at cost of reproduction. The Bureau of Geology shall also have the right to inspect and/or copy at cost, factual and physical exploration results, logs, records and any other processed records excluding interpreted data, including but not limited to the following:
a. Blackline or blueline paper copies of final stacked sections and migrated sections. Paper copies of section chosen for State use shall be made at one-half scale, (2 1/2 inches per second);
b. Post-plot maps at a scale of 1:48,000 (1 inch equals 4,000 feet) whenever possible or a readable and legible scale for the dimensions of the survey; and
c. Gravity data reduced or compiled in profile form and magnetometer data corrected for International Geomagnetic Reference Field in profile form whenever available. Data shall include how reductions and corrections were made.
(d) Easements
1. If a requested easement is located on lands under lease, sublease, management or other use, the applicant shall obtain permission from the authorized managing entity for the easement prior to application to the Trustees.
2. Applications for easements shall be noticed pursuant to Chapter 18-2, F.A.C., and applicable law.
3. If the requested easement is for the benefit of the authorized managing entity and the lease, sublease, etc. provides for the granting of an easement related to the functional use of the property, the authorized managing entity for the

property may process and grant the easement. In such case, a copy of any easement granted shall be provided to the Division by the managing entity.
(e) Release of Reservation, Deed and Dedication Restrictions and Reverters
1. The right of entry for the purpose of exploration and for phosphate, minerals, metals and petroleum or any interest as reserved pursuant to Section 270.11, F.S., in any contract or deed for sale of land executed by the Trustees is hereby released, provided that the property is, or ever has been, a contiguous tract of less than 20 acres in the aggregate and under the same ownership. This provision does not release the Trustees' oil, gas, or other mineral interest.
2. The right of entry for the purpose of exploration for phosphate, minerals, metals and petroleum or any interest as reserved pursuant to Section 270.11, F.S., in any contract or deed for sale of land executed by the Trustees for parcels 20 acres or greater shall be released, in whole or in part, to the record surface owners, provided the owners certify that the parcel will be a permanent building site and the land use will not involve phosphate, mineral, metal or petroleum extraction. This provision does not release the Trustees' oil, gas, or other mineral interest.
3. Canal and drainage reservations as reserved by the Trustees shall be released to the record owner(s), provided recommendation from the water management district with jurisdiction has been obtained, and the Trustees determine there is no further need for the reservation.
4. Road right-of-way reservations as reserved by the Trustees shall be released to the record owner(s), provided recommendation from the transportation authority with jurisdiction has been obtained, and the Trustees determine there is no further need for the reservation.
5. Deed or dedication restrictions or reverters shall be released to the record owner(s) if the Trustees determine that there is no longer any present or future public purpose for retaining them and that the affected parcel contains no fragile environmental, historical, archaeological or recreational resources which would require protection through continued enforcement of the restrictions or reverters.
(f) Letters of Consent
1. Letters of consent are issued, pursuant to Chapter 18-2, F.A.C., upon receipt by the Division of a request for an incidental, one-time use which will result in no permanent alteration of Trustees-owned uplands.
2. Letters of consent shall contain a condition that the grantee accept all liability associated with the proposed use and shall be countersigned by the grantee.
*Specific Authority 253.03(7)(a) FS. Law Implemented 253.001, 253.02, 253.03, 253.04, 253.034, 253.111, 253.115, 253.42-.44, 253.47,*
*253.51-.61, 253.62, 253.77, 253.82, 259.035, 270.07, 270.08, 270.11 FS. History–New 6-4-96, Amended 4-17-02.*
**18-2.019 Procedures to Obtain Authorization.**
(1) Written authorization from the Trustees is required to conduct activities on Trustee-owned uplands.
(2) Applications to use uplands which are subject to the DRI or PDA review process shall be processed only after the DRI or PDA application review process is complete and the DRI or PDA has been authorized.
(3) An applicant shall have 90 days to respond to a request for additional information. If the additional information is not received by the division within the 90 day period, the application shall be considered deactivated.
(4) Public notice
(a) After receiving an application in compliance with such forms as may be required by this rule requesting the Trustees to sell, exchange, lease, or grant an easement on, over, under, above, or across any land to which it holds title, the Trustees must provide notice of the application. The notice must include the name and address of the applicant; a brief description of the proposed activity and any mitigation; the location of the proposed activity, including whether it is located adjacent to an Outstanding Florida Water or an aquatic preserve; a map identifying the location of the proposed activity subject to the application; a diagram of the limits of the proposed activity; and a name or number identifying the application and the office where the application can be inspected. A copy of this notice must be sent to those persons who have requested to be on a mailing list and to each owner of land lying within 500 feet of the land proposed to be leased, sold, exchanged, or granted for an easement, addressed to such owner as his name and address appears on the latest county tax assessment roll.
(b) The department shall consider comments and objections received in response to the public notice in reaching its decision to approve or deny use of Trustees-owned lands for a proposed activity. If objections are raised which show that the activity does not conform to the requirements of this rule, and the local public would be affected by the activity, the department shall hold an informal public hearing in the county in which the subject property lies.
(c) The department shall provide notice of intended agency action to the applicant and to those who have requested a copy of the intended agency action for that application.
(d) In addition to the notice and publication requirements of subsection (a) above, before any lease for oil and gas activities within a radius of 3 miles of the boundaries of any incorporated city, or town, or within such radius of any bathing beach, or beaches, outside thereof is offered, the department shall hold a public hearing. Such public hearing shall be noticed by publication once in a newspaper of general circulation, published at least one week prior to said hearing, in the vicinity of the land, or lands, offered to be leased. After such hearing, the board may withdraw said land, or any part thereof, from the market, and refuse to execute such lease or leases if it considers such execution contrary to the public welfare.
(e) Failure to provide the notice as set out in subsections (a) and (c) will not invalidate the sale, exchange, lease, or easement.

(f) The notice and publication requirements of this paragraph do not apply to:
1. The release of any reservations contained in Murphy Act deeds or other deeds of the Trustees;
2. Any conveyance of uplands which do not exceed 5 acres in area;
3. The lease or easement for any land when the land is being leased to a state agency;
4. The conveyance of lands pursuant to the provisions of Section 373.4592, F.S.; or
5. Renewals, modifications or assignments.
6. Leases where management of a property has been determined through the selection process for a state acquisition list.
(5) State agency notice
(a) Before a parcel of land is offered for lease, sublease or sale to a local or federal unit of government or a private party, it shall first be offered to state agencies.
(b) This provision shall be waived in instances where:
1. A managing entity proposes subleasing property and that sublease is directly related to the purpose of the primary lease, as certified by the sublessor;
2. Management of a property has been determined through the selection process for a state acquisition list;
3. The proposed lease or sale is for subsurface rights or interests;
4. The Trustees determine that conveyance of the parcel by sale, gift or exchange provides a greater benefit to the public than retention in state ownership; or
5. The land is being exchanged pursuant to Chapter 18-2, F.A.C. (6) Applications for authorization to use uplands shall be accompanied by a non-refundable application fee. This fee does not apply to applications filed by agencies. Fees shall be made payable to the Florida Department of Environmental Protection. The application fees are as follows:
(a) Lease:
$300
(b) Sublease:
$300
(c) Renewal, Modification, or
$300
Assignment:
(d) Easement:
$300
(e) Use Agreement:
1. Geophysical Testing
$800 involving uplands only
2. Geophysical Testing
$1,000 involving submerged lands and uplands
3. Others
$300
(f) Disposal of Lands:
N/A
(g) Exchange of Lands:
$300
(h) Mineral Interest Sale:
$1,000
(i) Release of Reservation
$300
(j) Reactivation of an Same as the Application and transfer or the assignment of a previous original fee.
authorization:
*Specific Authority 253.03 FS. Law Implemented 253.03, 253.034, 253.115, 253.42, 253.52, 253.77 FS. History–New 6-4-96.*

**18-2.020 Payments and Consideration.**
(1) Leases.
(a) Consideration for private leases shall be based upon an appraisal, except for oil and gas leases, and shall be competitively bid.
(b) For leases, other than oil and gas, staff will recommend awarding of the lease to the bidder offering the highest annual rental.
(c) For oil and gas leases, staff will recommend awarding of the lease to the bidder offering the highest bonus.
(d) Annual payments for oil and gas leases shall be determined by whether the leased parcel is producing or non-producing, as follows:
1. If the leased parcel is non-producing, the annual rental fee shall be $3.50 per net mineral acre.
2. If the leased parcel is producing, the royalties shall be as follows:
a. The royalty shall be 1/4 when the lease area is located within a section that is contiguous to any section with hydrocarbon production or a shut in well capable of producing hydrocarbons. However, if there is an intervening dry hole, the royalty shall be 1/5;

b. The royalty shall be 1/5 when the lease area is located at least one mile but no more than 3 miles from any section with hydrocarbon production or a shut in well capable of producing hydrocarbons. However, if there is an intervening dry hole in the 1/5 royalty area, the royalty shall be 1/6;
c. The royalty shall be 1/6 when the lease area is more than 3 miles from any section with hydrocarbon production or a shut in well capable of producing hydrocarbons.
d. An intervening dry hole must be located between a producing well and the proposed lease area and must be at least to the depth of or the stratigraphic equivalent of the well proposed to be drilled on the lease area.
e. Where multiple wells are drilled and the geographic location raises doubt as to whether the royalty for a potential new location is 1/4, 1/5, or 1/6, the higher royalty shall prevail.
f. As used in reference to oil and gas leases, a chart entitled "Royalty Areas Defined", is shown as Exhibit "B".
(e) The annual payment for mineral leases, other than oil and gas leases, shall be a predetermined percentage of revenues received from the extraction of mineral based on current fair market practices.
(2) Disposal.
(a) The consideration for the disposal of uplands shall be based upon an appraisal.
(b) Disposal of surplus land shall be competitively bid except that parcels 5 acres or less in size or with a market value of $100,000 or less may be sold by any reasonable means, including open or exclusive listing with real estate sales services, competitive bid, auction, and negotiated direct sales. In no case shall a real estate brokerage fee or auction fee exceed 10% of the purchase price.
(c) Sales of mineral interests shall be competitively bid unless the Trustees do not own the surface, in which case the consideration shall be negotiated with the surface owner.
(d) The value of the private land for exchange purposes shall be no more than 100% of an appraisal of market value or average if two appraisals are used or the average of the two closest appraisals if more than two are used. A new appraisal shall not be required if the private parcel is already under a Trustees option or purchase contract. In such cases, the exchange price of such land shall be no more than the contracted purchase price.
(e) If successful in the bid process, private landowners may apply their land as full or partial payment for the state parcel but in no case shall the credit given be more than the market value.
(3) Use Agreements.
(a) Appraisals and competitive bidding are not required for use agreements.
(b) Except for geophysical crossings, the consideration for use agreements shall be negotiated based on the type of activity.
(c) The consideration for use agreements for geophysical crossings shall be set at $600 per mile. The mileage fee shall be based upon the number of miles of uplands permitted and is non-refundable.
(4) Easements.
(a) A one-time fee for private easements of greater than one-quarter acre in size shall be assessed and based upon an appraisal.
(b) A one-time fee for private easements of one-quarter acre or less in size shall be negotiated by the Division if value information other than an appraisal is available.
(c) Competitive bidding shall not be required for this activity.
(5) Release of Restrictions or Reverters.
(a) There shall be no consideration for the release of reserved interest for road right of way, canal right of way and right of entry for oil and gas exploration activities.
(b) The consideration for release of all other deed or dedication restrictions or reverters shall be based upon negotiation and shall be sold only to the current property owner.
(6) Letters of consent.
(a) Appraisals and competitive bidding are not required for letters of consent.
(b) Consideration for letters of consent shall be negotiated based on the type of activity.
(7) Competitive Bidding Procedures.
(a) When competitive bidding is required, notice to bidders shall be given by publication in a newspaper published in the county in which the lands are located not less than once a week for three consecutive weeks. The notice shall provide the following:
1. A complete legal description and location of the parcel by Section, Township and Range;
2. The total acreage of the parcel for lease or sale;
3. The term of lease and any renewal options, if applicable;
4. Any restrictions as to the use of the lands;
5. A statement of obligations of the grantee for taxes and drainage assessments;
6. The minimum value of improvements to be made, if any;
7. Any conditions deemed necessary by the Trustees;
8. The deadline, date and time, for the receipt of sealed bids in the office of the division; and
9. The address to which the bid shall be directed and posted; or
10. In lieu of all the foregoing, the publication may be limited to items 1., 2. and 9. and notice that a complete statement concerning terms of the lease or sale will be forwarded to interested bidders upon request.

(b) When the requested lease is for oil and gas activities or a mineral sale, the notice to bidders shall be given by publication in a newspaper of general circulation in Leon County and in the area vicinity not less than once a week for four (4) consecutive weeks. The last publication in both newspapers shall not be less than 5 days in advance of the award date.
(c) Upon request, applicants will be sent a bid specification packet which shall include the following information:
1. Materials, instructions and deadline for submitting bids;
2. A copy of the proposed lease or sales contract; and
3. A statement of the appraised value.
(d) Sealed bids shall be accompanied by a certified check or letter of credit from a financial institution as defined by Section 655.005, F.S., for 10% of the amount bid for the annual rental fee or 10% of the purchase price as payment for the earnest money. The deposits will be non-refundable to the successful bidder and will be credited toward the lease fee or purchase price.
(e) Deposits for unsuccessful or rejected bids shall be returned within 5 working days after the awarding of the bid by the Trustees.
(8) Administrative Fee.
Each government lessee shall pay to the division an annual administrative fee of $300.00 for each lease, sublease or management agreement authorizing the lessee to occupy uplands.
(a) The annual administrative fee shall be payable in advance beginning on July 1, 1993, and continuing on July 1 of each year thereafter.
(b) For leases and for subleases executed after July 1, 1993, the initial annual administrative fee shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution.
(c) Each annual payment thereafter shall be due and payable on July 1 of each subsequent year in the amount of $300.00.
*Specific Authority 253.03 FS. Law Implemented 253.03, 253.034, 253.42, 253.51-.54, 253.571, 270.11 FS. History–New 6-4-96.*

**18-2.021 Land Management Advisory Council.**
(1) Land Management Advisory Council Composition and Procedures.
(a) The council shall be composed of the following persons or their designees:
1. The Commissioner of the Department of Agriculture and Consumer Services;
2. The Secretary of State;
3. The Executive Director of the Game and Fresh Water Fish Commission;
4. The Secretary of the Department of Environmental Regulation;
5. The Secretary of the Department of Corrections;
6. The Commissioner of the Department of Education;
7. The Secretary of the Department of Community Affairs;
8. One individual chosen by the Secretary of the Department of Environmental Protection.
(b) The Chairmanship of the council shall rotate annually on October 1 of each year in the order listed above as set forth in Section 253.034, F.S.
(c) The committee shall hold periodic meetings at the request of the chairman. The meetings shall be recorded electronically and such records shall be preserved pursuant to Chapters 119 and 267, F.S.
(2) Land Management Advisory Council Responsibilities and Procedures.
(a) The responsibilities of the council shall include:
1. Reviewing each plan or sublease over 160 acres, and each surplus land determination within 60 days after receipt from the division.
2. Considering the propriety of the agency's recommendations regarding the future use of the land, protection of fragile and non-renewable resources, maintenance and use of renewable resources.
3. Identifying the potential for alternative or multiple uses not recognized by the managing agency.
4. Identifying lands surplus to the agency's need which could be used by or reserved for other agency use or disposed of as surplus.
5. Considering whether lands would be more appropriately owned or managed by a county or other local government and whether a sale, lease, or other conveyance would be in the interests of the State and local government.
(b) The procedures of the council shall include:
1. All management plans and subleases for areas over 160 acres in size, and all surplus land determinations shall be reviewed by the council prior to submittal to the Board. Utilizing the policies, standards, and criteria of this rule, the council shall specifically recommend to the Board whether to approve, approve with modifications, or reject a management plan, sublease, or surplus lands determination.
2. Management plans and subleases for areas less than 160 acres in size, may at the request of three (3) or more council members, be submitted to the council for review and recommendations.
3. A recommendation to the Board on management plans, subleases and surplus land designations by the council shall be by the concurrence of at least four (4) members.

4. The use of State-owned land in a manner which is inconsistent with the existing lease or the approved land management plan, shall cause the lease to be subject to termination by the Board. The council shall recommend to the Board when such uses are not in accordance with the approved management plan or lease/agreement.
(3) Agency Duties.
(a) Primary staff support for the council shall be provided by the division, including the recording functions.
(b) The managing agency should be prepared to respond to any inquiries or issues.
(c) The managing agency shall prepare executive summaries which highlight important management facts, issues, or problems, and any public input which went into developing the plan or sublease.
(4) Management Plans. Plans submitted to the division for council review under the requirements of Section 253.034, F.S., should contain, where applicable to the management of resources, the following:
(a) The common name of the property.
(b) A map showing the location and boundaries of the property plus any structures or improvements to the property.
(c) The legal description and acreage of the property.
(d) The degree of title interest held by the Board, including reservations and encumbrances such as leases.
(e) The land acquisition program (e.g., C. A. R. L., E. E. L., Save Our Coast), if any, under which the property was acquired.
(f) The designated single use or multiple use management for the property, including other managing agencies.
(g) Proximity of property to other significant State, local, or federal land or water resources.
(h) A statement as to whether the property is within an aquatic preserve or a designated area of critical State concern or an area under study for such designation.
(i) The location and description of known and reasonably identifiable renewable and non-renewable resources of the property including, but not limited to, the following:
1. Brief description of soil types, using U. S. D. A. maps when available;
2. Archaeological and historical resources;
3. Water resources including the water quality classification for each water body and the identification of any such water body that is designated as an Outstanding Florida Waters;
4. Fish and wildlife and their habitat;
5. State and federally listed endangered or threatened species and their habitat;
6. Beaches and dunes;
7. Swamps, marshes and other wetlands;
8. Mineral resources, such as oil, gas and phosphate;
9. Unique natural features, such as coral reefs, natural springs, caverns, large sinkholes, virgin timber stands, scenic vistas, and natural rivers and streams; and
10. Outstanding native landscapes containing relatively unaltered flora, fauna, and geological conditions.
(j) A description of actions the agency plans, to locate and identify unknown resources such as surveys of unknown archaeological and historical resources.
(k) The identification of resources on the property that are listed in the Natural Area Inventory.
(l) A description of past uses, including any unauthorized uses of the property.
(m) A detailed description of existing and planned use(s) of the property.
(n) A description of alternative or multiple uses of the property considered by the managing agency and an explanation of why such uses were not adopted.
(o) A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a detailed description of the specific actions that will be taken to protect, enhance and conserve these resources and to mitigate damage caused by such uses.
(p) A description of management needs and problems for the property.
(q) Identification of adjacent land uses that conflict with the planned use of the property, if any.
(r) A description of legislative or executive directives that constrain the use of such property.
(s) A finding regarding whether each planned use complies with the State Lands Management Plan adopted by the Trustees on March 17, 1981, and incorporated herein by reference, particularly whether such uses represent “balanced public utilization”, specific agency statutory authority, and other legislative or executive constraints. A copy of the plan may be obtained by writing to the Department of Environmental Protection, Division of State Lands, Bureau of Land Management Services, 3900 Commonwealth Boulevard, Mail Station 130, Tallahassee, Florida 32399-3000.
(t) An assessment as to whether the property, or any portion, should be declared surplus.
(u) Identification of other parcels of land within or immediately adjacent to the property that should be purchased because they are essential to management of the property.
(v) A description of the management responsibilities of each agency and how such responsibilities will be coordinated, including a provision that requires that the managing agency consult with the Division of Archives, History and Records Management before taking actions that may adversely affect archaeological or historic resources.
(w) A statement concerning the extent of public involvement and local government participation in the development of the plan, if any, including a summary of comments and concerns expressed.

(5) Policies, Standards, and Criteria. The following management policies, standards, and criteria will be used by the council to determine whether to recommend approval, approval with conditions or modifications, or to reject any agency management plan, sublease or surplus land determination.
(a) The policies, standards, and criteria that are enumerated in Chapter 18-2, F.A.C., "Management of Uplands Vested in the Board of Trustees".
(b) The policies, standards, and criteria that are enumerated in Chapter 18-21, F.A.C., "Sovereignty Submerged Lands Management".
(c) The policies, standards, and criteria that are enumerated in the "State Lands Management Plan", adopted March 17, 1981, by the Board. A copy of the plan may be obtained by writing to the Department of Environmental Protection, Division of State Lands, Bureau of Land Management Services, 3900 Commonwealth Boulevard, Mail Station 130, Tallahassee, Florida 32399-3000.
(6) Sublease Reviews.
(a) Pursuant to Section 253.034, F.S., an agency managing or leasing State-owned lands from the Board shall not sublease lands without prior review by the division and the council and subsequent approval by the Board. Subleases for areas greater than 160 acres in size shall be reviewed by the council prior to submittal to the Board.
(b) All sublease requests shall be made pursuant to Chapter 18-2, F.A.C., and applicable laws governing the leasing and subleasing of State-owned lands.
(c) Subleases submitted to the division for review shall include the following:
1. Eight copies of all material submitted.
2. A copy of the proposed sublease.
3. A statement regarding how the sublease complements and conforms with the agency's management plans for the subject property.
4. A statement specifically identifying how the sublease conforms to the agency's statutory authority.
5. Identification of the sublease fees, rentals, or other charges and how these fees were established; i.e., appraised market value, negotiated, or competitive bid.
6. Identification of where the sublease revenues will be deposited and how they will be utilized by the agency.
(7) Surplus Land Determination.
(a) The council shall review all State-owned lands which are not actively managed by any State agency, for which a land management plan has not been completed, or are recommended for disposal by any State agency, and recommend to the Board if such lands should be disposed of.
(b) In developing a recommendation the council shall consider the following factors:
1. Environmental value including flora and fauna, geology, hydrology, and general importance to the regional ecological systems;
2. Recreational value, including potential as a State managed recreational area;
3. Cultural value;
4. Size and location, including management feasibility and relationship to other State managed areas; and
5. History and potential of revenue production.
(c) If a determination is made that a parcel of State land should be disposed of by the Board, the council shall consider and make recommendations of the following:
1. Whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located, and whether any unit of local government has expressed an interest in the subject parcel.
2. Whether the property should be leased, exchanged, transferred in fee simple, or transferred with a restriction as to use, right of reversion, or other special deed provisions.
*Specific Authority 253.03 FS. Law Implemented 253.022, 253.034 FS. History–New 6-4-96.*

**SEE FLORIDA ADMINISTRATIVE CODE FOR "EXHIBIT A - EVERGLADES AGRICULTURAL AREA, EXHIBIT B - ROYALTY AREAS DEFINED AND EXHIBIT C - CONSERVATION AREAS"**