

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1640

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Albritton

SUBJECT: Deregulation of Professions and Occupations

DATE: April 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer/Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1640 relates to businesses and professions regulated by the Department of Business and Professional Regulation. The bill deregulates the following professions by deleting license requirements for:

- Interior designers;
- Hair braiders, hair wrappers, and body wrappers;
- Nail polishers and makeup applicators; and
- Boxing announcers and timekeepers.

The bill partially deregulates the following businesses and professions by deleting license requirements, while maintaining some standards of practice and civil and criminal causes of action:

- Auctioneers;
- Talent agents (that represent artists younger than age 18); and
- Labor organizations.

The bill deletes the requirement that a yacht and ship broker must have a separate license for each branch office. The bill eliminates the additional business or firm license required for the following professional licensees:

- Asbestos abatement consultants and contractors;
- Architects;

- Engineers;
- Landscape architects; and
- Geologists.

The bill provides additional options for the following professionals, if licensed in another state, to qualify for a professional license in Florida:

- Barbers;
- Veterinarians;
- Construction and electrical contractors;
- Landscape architects;
- Geologists;
- Engineers;
- Certified public accountants;
- Mold services professionals;
- Home inspectors;
- Building code professionals; and
- Cosmetologists.

The bill revises the membership of the Florida Building Commission.

The bill will have a significant negative fiscal impact on state revenues with an estimated reduction of revenues to the Department of Business and Professional Regulation totaling \$3,910,120. The bill will have a corresponding reduction of approximately \$312,810 in the eight percent revenue service charge sent to General Revenue (non-operating expenditure) for the next three fiscal years (Fiscal Years 2019-2020 to 2021-2022). The bill will result in a reduction of expenditures for the Department of Business and Professional Regulation of \$135,900 in Fiscal Year 2019-2020, \$141,100 in Fiscal Year 2020-2021, and \$147,800 in Fiscal Year 2021-22. *See* Section V.

The bill takes effect July 1, 2019.

II. Present Situation:

For ease of reference, the Present Situation for each section of CS/SB 1640 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (the DBPR or Department) is provided below.

Organization of the Department of Business and Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;

- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.¹ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.²

Powers and Duties of the Department

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation,”³ as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.⁴

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state,”⁵ and regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁶

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.⁷

¹ Section 548.003(1), F.S.

² See Parts I and III of ch. 450, F.S.

³ See s. 455.01(6), F.S.

⁴ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁵ Section 455.201(2), F.S.

⁶ *Id.*

⁷ Section 455.201(4)(b), F.S.

Department of Business and Professional Regulation Boards

Fifteen boards and programs exist in the Division of Professions,⁸ two boards in the Division of Real Estate,⁹ and one board in the Division of Certified Public Accounting.¹⁰

Permitting, Registration, Licensing, and Certification

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of revenue required to implement the regulatory laws affecting the profession.¹¹

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a license, which may be referred to as either a permit, registration, certificate, or license.¹² Those who are granted licenses are “licensees.”¹³

In Fiscal Year 2017-2018, the Division of Accountancy had 37,896 active licensees, the Division of Real Estate had 283,070 active licensees, and the Board of Professional Engineers had 64,219 licensees.¹⁴ In Fiscal Year 2017-2018, there were 434,642 active licensees in the Division of Professions,¹⁵ including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;

⁸ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers’ Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors’ Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

⁹ See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

¹⁰ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

¹¹ Section 455.219(1), F.S.

¹² Section 455.01(4), F.S.

¹³ Section 455.01(5), F.S.

¹⁴ See Department of Business and Professional Regulation, *Annual Report, Divisions of Professions, Certified Public Accounting, Real Estate, and Regulation, Fiscal Year 2017-2018*, (the “Professions Annual Report for FY 2017-2018) at <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf>, pp. 19-20 (last visited April 5, 2019)

¹⁵ Of the total 456,875 licensees in the Division of Professions, 22,233 are inactive. See *supra* note 14 at p. 20.

- Employee leasing companies;
- Geologists;
- Home inspectors;
- Harbor pilots;
- Landscape architects;
- Mold-related services;
- Talent agencies; and
- Veterinarians.¹⁶

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.¹⁷ The FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium associations under ch. 718, F.S.;
- Cooperative associations under ch. 719, F.S.;
- Florida mobile home parks and related associations under ch. 723, F.S.;
- Vacation units and timeshares under ch. 721, F.S.;
- Yacht and ship brokers and related business entities under ch. 326, F.S.; and
- Homeowner's associations under ch. 720, F.S. (jurisdiction is limited to arbitration of election and recall disputes).¹⁸

III. Effect of Proposed Changes:

Yacht and Ship Broker Branch Office Licenses

Present Situation:

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the FCTMH, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.¹⁹

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.²⁰ Each yacht or shipbroker must maintain a principal place of business in Florida and may establish branch offices in Florida. A separate license must be maintained for each branch office.²¹ Applicants for a branch office license must pay a \$100 fee, and the branch license must be renewed every two years.²²

¹⁶ See *supra* note 14 at pp. 19-20.

¹⁷ See Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condominiums-and-cooperatives/> (last visited April 5, 2019).

¹⁸ See s. 720.306(9)(c), F.S.

¹⁹ See Department of Business and Professional Regulation, *Yacht and Ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/DBPR/yacht-and-ships/> (last visited April 5, 2019).

²⁰ Section 326.004(1), F.S.

²¹ Section 326.004(13), F.S.

²² See Fla. Admin. Code R. 61B-60.002 (2019) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61B-60> (last visited April 5, 2019).

Effect of Proposed Changes:

Section 2 amends s. 326.004(13), F.S., by deleting the requirement for a separate license for each branch office maintained by a yacht and ship broker. The current provisions related to licensing for yacht brokers and salespeople are retained.

Labor Organizations***Present Situation:***

Chapter 447, F.S., governs the licensing and regulation of labor organizations and related business agents in the state. The Division of Regulation within the DBPR processes license applications and regulates the activities of labor unions and their officers, agents, organizers, and representatives.²³

A labor organization is:

[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.²⁴

In Florida, labor organizations are required to register with the DBPR and their business agents must obtain a license.²⁵ Business agents are “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- Issuing membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; and
- Soliciting or receiving from any employer any right or privilege for employees.”²⁶

Applicants for a business agent license must pay a \$25 license fee and must meet a number of licensure requirements.²⁷ Labor organization applicants must pay an annual fee of \$1.²⁸

Effect of Proposed Changes:

Sections 3 through 11 amend ch. 447, F.S., by eliminating the registration and regulation of labor organizations and their business agents by the DBPR and the requirement that the Public Employees Relations Commission notify the DBPR of registrations and renewals of such

²³ Section 447.01, F.S., and *see* Department of Business and Professional Regulation, *Labor Organizations and Business Agents*, <http://www.myfloridalicense.com/DBPR/labor-organizations-and-business-agents/> (last visited April 5, 2019).

²⁴ Section 447.02(1), F.S.

²⁵ Sections 447.04(2) and 447.06, F.S.

²⁶ Section 447.02(2), F.S.

²⁷ Section 447.04(2), F.S. Requirements include submission of the applicant’s fingerprints and a statement of authority to act on behalf of a labor organization.

²⁸ Section 447.06(2), F.S.

organizations. Provisions relating to the right to work and strike,²⁹ recordkeeping,³⁰ rights of franchise for labor organizations,³¹ civil causes of action,³² criminal penalties,³³ and recognition of federal regulations³⁴ are not affected by the bill.

Reciprocal Licensing by the Department of Business and Professional Regulation

Present Situation

Section 455.213, F.S., provides general licensing provisions for the DBPR. The DBPR or its applicable board may issue certain types of licenses by endorsement (reciprocity) to persons licensed in another state, if the other state's license qualification requirements are equal to or greater than, the profession's license qualification requirements in Florida.³⁵

Effect of Proposed Changes

Section 12 amends s. 455.213, F.S., to require the DBPR or board to enter into reciprocal licensing agreements with other states when permitted by the practice act for a profession. The bill requires the DBPR to post on its website existing reciprocity agreements with other states or to identify the states whose licensing requirements are substantially equivalent or more stringent than the licensing requirements in Florida.

Auctioneers

Present Situation

Auction businesses, auctioneers, and apprentice auctioneers are licensed and regulated by the Florida Board of Auctioneers within the DBPR in accordance with part VI of ch. 468, F.S. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the auctioneering industry.³⁶ There were 2,422 active licensed auctioneers and auction businesses, and 25 disciplinary orders issued to auctioneers in the 2017-2018 fiscal year.³⁷

A license is required before any person can auction or offer to auction any property in this state, and the auctioneer practice act applies to all auctions in the state, with certain exceptions.³⁸

In order to qualify for licensure as an auctioneer, an applicant must:

- Be 18 years or older;

²⁹ Section 447.13, F.S.

³⁰ Section 447.07, F.S.

³¹ Section 447.09, F.S.

³² Section 447.17, F.S.

³³ Section 447.14, F.S.

³⁴ Section 447.15, F.S.

³⁵ See, for example, s. 477.019(6), F.S., relating to licensure by endorsement for a person licensed as a cosmetologist in another state.

³⁶ Department of Business and Professional Regulation, *Auctioneers—Board Information*, <http://www.myfloridalicense.com/DBPR/auctioneers/board-information/> (last visited April 5, 2019).

³⁷ *Supra* note 14 at pp. 19 and 94.

³⁸ Sections 468.385(2) and 468.383, F.S.

- Not have committed any act or offense in the state or any other jurisdiction which would constitute a basis for disciplinary action in Florida;
- Have held an apprentice license and have served as an apprentice for one year or more, or have completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board; and
- Pass the required examination.³⁹

The Florida Board of Auctioneers assesses a variety of fees for licensure as an auctioneer, including application fees (\$50), examination fees (\$250, plus \$10 payable to the testing service), initial license fees (\$150), and renewal fees (\$150).⁴⁰

An auctioneer may be disciplined or have a civil action brought against them by the DBPR for the following violations:⁴¹

- Violating any trade or commerce law;
- Misrepresenting property for sale at auction;
- Failing to return money or property within 30 days of obtaining control of such money or property;
- Advertising in a false, deceptive, misleading, or untruthful manner;
- Acting in bad faith or with dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money;
- Refusing or neglecting to pay public moneys into the State Treasury when prescribed by law; and
- Violating any other provision of the practice act.

An auctioneer commits a third-degree felony for certain violations of the practice act, including:⁴²

- Failing to return money or property within 30 days of control of such money or property;
- Using bad faith or dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money; and
- Refusing or neglecting to pay the public moneys into the State Treasury when prescribed by law.

Effect of Proposed Changes

Section 1 amends s. 20.165(4)2., F.S., to eliminate the Florida Board of Auctioneers.

Sections 13 through 32 amend part VI of ch. 468, F.S., to delete all licensing requirements for auctioneers, apprentices, and auction businesses.

³⁹ Section 468.385(6), F.S.

⁴⁰ See Fla. Admin. Code R. 61G2-3.001 (2019).

⁴¹ Section 468.389, F.S.

⁴² Section 468.391, F.S.

The bill does not affect existing provisions governing the conduct of auctions, such as requirements to maintain a record book of all sales, and prohibition of certain acts, such as misrepresentations, false or deceptive advertising, and failure to account for funds in the control of the auctioneer. Under s. 468.389, F.S., a violation of any of the prohibited acts constitutes a basis for civil action against an auctioneer or an auction business or its owners or management. The bill also does not affect the criminal penalties in s. 468.391, F.S., applicable for certain violations of the prohibited acts by an auctioneer or auctioneer business.

Section 101 amends s. 559.25(3), F.S., to delete the reference to licensed auctioneers in the context of persons who are exempt from compliance with requirements relating to fire and going-out-of-business sales and auctions. Under the bill, auctioneers are required to comply with the requirements in part III of ch. 559, F.S., which include obtaining a permit from the tax collector before publishing or conducting an auction.⁴³

Talent Agencies

Present Situation

Chapter 468, Part VII, F.S., establishes regulations and licensure requirements for talent agencies. Talent agencies are licensed by the Division of Regulation within the DBPR. Talent agents represent and promote talent and performers to prospective employers. They may also handle contract negotiation and other business matters for clients.⁴⁴ There were 320 licensed talent agencies and no disciplinary orders issued to talent agencies in the 2017- 2018 fiscal year.⁴⁵

Sections 468.403 and 468.405, F.S., provide licensure requirements, including proof of at least 1 year of direct experience in the talent agency business or specific related careers. A license application must be accompanied by affidavits of at least five reputable persons, other than artists, who have known or have been associated with the applicant for at least 3 years, stating that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing. Each application must also specify whether the agency, any person, or any owner of the agency is financially interested in any other business of a similar nature.

Talent agencies must pay an initial licensure application fee of \$300 and an initial license fee of \$400. Additionally, each talent agency must post a \$5,000 bond.⁴⁶ Licenses are renewed biennially.

Part VII of Chapter 468, F.S., also includes requirements for recordkeeping,⁴⁷ prohibitions on registration fees,⁴⁸ and contractual requirements.⁴⁹ Certain prohibited acts are crimes punishable as a second-degree misdemeanor or a third-degree felony and by revocation of the talent

⁴³ See s. 559.21, F.S., relating to the regulation of sales.

⁴⁴ Section 468.401, F.S. See also, Department of Business and Professional Regulation, *Talent Agencies*, <http://www.myfloridalicense.com/DBPR/talent-agencies/> (last visited April 5, 2019).

⁴⁵ *Supra* note 14 at pp. 19-20 and 94.

⁴⁶ Section 468.408, F.S.

⁴⁷ Section 468.409, F.S.

⁴⁸ Section 468.410, F.S.

⁴⁹ See, e.g., sections 468.410(3), and 468.413(2)(f), F.S.

agency's license.⁵⁰ Additionally, owning or operating a talent agency without a license, or obtaining such license by means of fraud, misrepresentation or concealment constitutes a felony of the third degree.⁵¹ Section 468.13(4), F.S., provides that a state attorney may seek appropriate relief for violations of s. 468.413(1), F.S.

Section 468.415, F.S., prohibits sexual misconduct by a talent agent and authorizes the DBPR to permanently revoke the license of any agent, owner, or operator of a talent agency who violates this prohibition. Such person is also permanently disqualified from licensure as an agent, owner, or operator of a talent agency.

Effect of Proposed Changes

Sections 33 through 36 amend part VII of ch. 468, F.S., to limit the license requirements for talent agencies. Under the bill, a talent agency is not required to be licensed if it does not represent an artist younger than 18 years of age. The bill retains all other requirements for talent agencies including the requirement to maintain a surety bond, and for the conduct of the profession, including record keeping requirements, prohibited acts, and criminal penalties for prohibitions that are unrelated to license requirements.

The bill creates subsection (12) of s. 648.412, F.S., to require employees of a talent agency to complete a level 1 background screening pursuant to s. 435.03, F.S.⁵²

The bill does not repeal the prohibition in s. 468.415, F.S., against sexual misconduct. Under the bill, violators are permanently prohibited from acting as an agent, owner, or operator of a Florida talent agency. However, if the violator is a person who is exempt from the license requirement because he or she does not represent an artist under 18 years of age, the bill does not provide a remedy or other penalty if such person is acting as an agent, owner, or operator of a Florida talent agency after being permanently barred from doing so. The criminal penalties in s. 468.413, F.S., for violations involving certain prohibited acts do not apply to the sexual misconduct prohibition in s. 468.415, F.S.

Employee Leasing Companies

Present Situation

Employee leasing is an arrangement where a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.⁵³ This is commonly referred to as a "temporary employment arrangement" or "temp job."⁵⁴ The Board of Employee Leasing Companies under

⁵⁰ Section 468.413, F.S. A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082(3)(e) and 775.083(1)(c), F.S.; A second-degree misdemeanor is punishable by no more than 60 days imprisonment and a \$500 fine. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁵¹ Section 468.413(1), F.S.

⁵² A level 1 background screening under s. 435.03, F.S., includes criminal records checks through the Florida Department of Law Enforcement and the Dru Sjodin National Sex Offender Public Website, and may include local criminal records checks through local law enforcement agencies.

⁵³ Section 468.520(4), F.S.

⁵⁴ Michael Altiero, *PEO and Employee Leasing-What's the Difference?* (Jan. 8, 2018), <https://www.extensigroup.com/blog/peo-and-employee-leasing-whats-the-difference> (last visited April 5, 2019).

the DBPR licenses and regulates employee leasing companies.⁵⁵ There were 941 licensed employee leasing companies and 92 disciplinary orders issued to employee leasing companies in the 2017-2018 fiscal year.⁵⁶

Section 468.524(4), F.S., requires a 1-year waiting period for re-application after an applicant for licensure as an employee leasing company is denied a license, or a licensee's license is revoked. This mandatory delay does not apply to administrative denials or revocations if:

- The applicant or licensee has made an inadvertent error or omission on the application;
- The experience documented to the board was insufficient at the time of the previous application; or
- The DBPR is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency.

Effect of Proposed Changes

Section 37 amends s. 468.524(4), F.S., to delete the 1-year mandatory delay for reapplication for applicants who were denied an employee leasing company license, but retains the delay for licensees who had their license revoked.

The bill deletes the exemptions to the 1-year restriction for reapplication for a license if the DBPR was unable to complete a criminal background investigation or the applicant was found ineligible for lack of good moral character. Under the bill, such persons would remain ineligible for licensure under part XI of ch. 468, F.S., for 1 year after revocation of a license.

Building Code Administrators and Inspectors

Present Situation

Building officials, inspectors, and plans examiners are regulated by part XII of ch. 468, F.S., and are regulated and licensed by the Florida Building Code Administrators and Inspectors Board (FBCAIB).⁵⁷ There were 8,265 licensed building code administrators and inspectors and there was one disciplinary order issued in the 2017-2018 fiscal year.⁵⁸

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.⁵⁹

A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. An inspector's ability to practice is limited to the category or categories in which the inspector has been certified. The inspector categories are:

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;

⁵⁵ Section 468.522, F.S.

⁵⁶ *Supra* note 14 at pp. 19 and 94.

⁵⁷ Section 468.605, F.S.

⁵⁸ *Supra* note 14 at pp. 19 and 94.

⁵⁹ Section 468.603(1), F.S.

- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- One and two family dwelling inspector; and
- Electrical inspector.⁶⁰

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. A residential plans examiner determines if plans comply with applicable residential construction codes.⁶¹ A plans examiner's ability to practice is limited to the categories in which he or she is certified. The plans examiner categories are: building plans examiner, plumbing plans examiner, mechanical plans examiner, and electrical plans examiner.⁶²

In order to become certified or licensed, building code administrators, inspectors, and plans examiners must pass the licensing exam required for the category sought.

In order to sit for the administrator exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:⁶³

- Have 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions; or
- Have a combination of no more than 5 years of postsecondary education in the field of construction or related field and at least 5 years of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent; and completed training on ethics and Florida laws relating to administrators.

In order to sit for the plans examiner or inspector exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:⁶⁴

- Have 4 to 5 years combined relevant education and experience, depending on how the applicant chooses to qualify;
- Complete an approved cross-training program and have at least 2 years of experience;
- Hold a standard certificate issued by the FBCAIB or a fire safety inspector license, and
 - Have at least 5 years of relevant experience as an inspector or plans examiner;
 - Have a minimum of 3 years of experience in inspection or plan review, and completed an inspector or plans examiner training program in the new category sought;
 - Have a minimum of 5 years of experience in fire safety inspection, and completed a training program of not less than 200 hours in the new category sought;
 - Complete an approved training program of not less than 300 hours in inspection or plans review; and a minimum of 2 years of experience in construction, inspection, plans review, fire code inspections and fire plans review of new buildings as a fire safety inspector; or
 - Complete a 4-year internship certification program.

⁶⁰ Section 468.603(6), F.S.

⁶¹ Section 468.603(8), F.S.

⁶² Section 468.603(7), F.S.

⁶³ Section 468.609(3), F.S.

⁶⁴ Section 468.609(2), F.S.

A person who is licensed in another state is eligible for a building code administrator, inspector, or plans examiner license by endorsement in Florida if they:⁶⁵ meet experience, educational, or training program requirements, complete the Florida principle and practice exam, and pass the relevant International Codes Council (ICC) exams for the category sought.

Effect of the Bill

Section 38 amends s. 468.613, F.S., to require the FBCAIB to waive examination, qualification, education, or training requirements, if an applicant is licensed in another state and the applicant:

- Is at least 18 years of age;
- Possesses good moral character;
- Holds a valid license to practice as a building code administrator, inspector, or plans examiner in another state or territory of the United States for at least 10 years before the date of application, and
- Successfully completes an applicable examination administered by the ICC.

Home Inspectors

Present Situation

Home inspectors are regulated by part XV of ch. 468, F.S., and are licensed by the Home Inspection Services Licensing Program within the DBPR. There were 7,503 licensed home inspectors and no disciplinary orders issued to home inspectors in the 2017-2018 fiscal year.⁶⁶

In order to obtain licensure as a home inspector, a person must have good moral character, carry liability insurance, complete a course study of at least 120 hours, and pass the required examination.⁶⁷

A person who is licensed in another state may be licensed by endorsement in Florida if he or she is of good moral character, holds a valid license to practice home inspection services in another state or territory of the United States whose educational requirements are substantially equivalent to Florida, and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination.⁶⁸

The DBPR may not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.⁶⁹

Effect of Proposed Changes

Section 39 amends s. 468.8314(3), F.S., to provide an additional means for a home inspector applicant to qualify for licensure by endorsement if the applicant:

⁶⁵ Section 468.613, F.S.; and Fla. Admin. Code R. 61G19-6.0035(4) (2019).

⁶⁶ *Supra* note 14 at pp. 19 and 94.

⁶⁷ Section 468.8313, F.S.

⁶⁸ Section 468.8414(3), F.S.

⁶⁹ Section 468.8314(3), F.S.

- Maintains a commercial general liability insurance policy in an amount of not less than \$300,000, as provided in s. 468.8322, F.S.; and
- Holds a valid license to practice home inspection services in another state or territory of the United States for at least 10 years before the date of application.

Mold-Related Services Professionals

Present Situation

Mold-related service professionals are regulated by part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program within the DBPR.⁷⁰ There were 4,521 mold-related services licensees and four disciplinary orders issued to mold-related services licensees in the 2017-2018 fiscal year.⁷¹

To be licensed as a mold assessor or mold remediator, a person must:

- Be of good moral character;
- Have the required liability insurance; and
- Meet one of the following education requirements:
 - At least a 2-year associate of arts degree with certain course requirements, and a minimum of one year of experience; or
 - A high school diploma or the equivalent with a minimum of 4 years of experience.⁷²

A person licensed in another state is eligible for a license by endorsement in Florida if the person:⁷³

- Is of good moral character;
- Holds required general liability insurance;
- Holds a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- Has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination required by this part.

Effect of Proposed Changes

Section 40 amends s. 468.8414(3), F.S., to permit an applicant to qualify for a license by endorsement if the person is licensed to practice as a mold assessor or mold remediator in another state or territory of the United States for at least 10 years before he or she submits an application for a Florida license.

⁷⁰ Department of Business and Professional Regulation, *Mold-Related Services*, <http://www.myfloridalicense.com/DBPR/mold-related-services/> (last visited April 5, 2019).

⁷¹ *Supra* note 14 at pp. 19 and 94.

⁷² Section 468.8413(2), F.S.

⁷³ Section 468.8414(3), (4), F.S.

Asbestos Abatement Business Organizations

Present Situation:

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement. The Asbestos Licensing Unit is a program located in the Division of Professions, which processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.⁷⁴ There were 442 asbestos-related licensees and no disciplinary orders issued to asbestos-related services licensees in the 2017-2018 fiscal year.⁷⁵

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work,⁷⁶ unless exempted.⁷⁷ A person must be a licensed asbestos consultant to conduct an asbestos survey, develop an operation and maintenance plan, monitor and evaluate asbestos abatement, or prepare asbestos abatement specifications.⁷⁸

Prerequisite qualifications for licensure as an asbestos consultant require that the applicant hold a current, valid, and active license as an architect, professional engineer, or professional geologist; is a diplomat of the American Board of Industrial Hygiene; or have been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.⁷⁹

If an applicant for licensure as an asbestos consultant or contractor intends to engage in consulting or contracting as a business organization, such as a corporation, or in any name other than the applicant's legal name, the individual applicant must apply for licensure under the fictitious name, or the business organization must apply through a qualifying agent.⁸⁰

Each licensed business organization must have a qualifying agent who is licensed under ch. 469, F.S., is qualified to supervise the enterprise, and is financially responsible.⁸¹ If the business' sole qualifying agent terminates his or her affiliation with the business, it must become qualified by another qualifying agent within 60 days after the termination.⁸² If the DBPR has granted a temporary license to the business organization's financially responsible officer (or other specified parties), the business organization may only complete work under its current contracts during the temporary licensure, and may not proceed with new contracts.⁸³

⁷⁴ Department of Business and Professional Regulation, *Asbestos Contractors and Consultants*, <http://www.myfloridalicense.com/DBPR/asbestos-contractors-and-consultants/> (last visited April 5, 2019).

⁷⁵ *Supra* note 14 at pp. 19 and 94.

⁷⁶ Section 469.003(3), F.S.

⁷⁷ Section 469.002, F.S., provides that in limited circumstances, certain governmental employees with required training may engage in asbestos abatement work solely for maintenance purposes.

⁷⁸ Section 469.003, F.S.

⁷⁹ Section 469.004(1), F.S.

⁸⁰ Section 469.006(2), F.S.

⁸¹ *Id.*

⁸² Section 469.006(3), F.S.

⁸³ *Id.*

Applicants for an asbestos abatement business license pay an application fee of \$300, an unlicensed activity fee of \$5, an initial licensure fee of \$250, and a biennial renewal fee of \$250.⁸⁴

Effect of Proposed Changes:

Sections 41 and 42 amend ss. 469.006 and 469.009, F.S., to remove the requirement for asbestos abatement licensees to obtain a separate license for an asbestos abatement business organization. If an applicant wants to practice under a firm offering asbestos abatement services, the qualifying agent must apply and have the license issued in his or her name and note the business organization's name on the license. The qualifying agent must still be a licensee pursuant to ch. 469, F.S., and must prove he or she is qualified to supervise and is financially responsible.

The bill does not amend the responsibilities of licensees under ch. 469, F.S., or otherwise affect the obligations of asbestos abatement consultants or contractors.

Engineering

Present Situation

The practice of engineering is regulated by the Florida Board of Professional Engineers (FBPE). Unlike most professions regulated by the DBPR, the administrative, investigative, and prosecutorial services for the FBPE are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.⁸⁵ There were 64,219 licensed professional engineers and 30 disciplinary orders issued to professional engineers in the 2017-2018 fiscal year.⁸⁶

To practice engineering through a business organization, the organization must be licensed and approved by FEMC. One or more of the business' principal officers or partners must be a licensed engineer. Applicants for an engineering business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125. There are no additional requirements for the business entity, such as an inspection requirement.⁸⁷

In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. A candidate for the fundamentals examination, must first graduate from an approved engineering curriculum of 4 years in an FBPE-approved school, college, or university, and have a record of 4 years of active engineering experience.⁸⁸

A professional engineer who is licensed in another state is eligible for licensure by endorsement in Florida if the person:⁸⁹

⁸⁴ See Fla. Admin. Code R. 61E1-3.001 (2019).

⁸⁵ Section 471.038(3), F.S.

⁸⁶ Florida Engineers Management Corp., *2017-2018 Florida Engineers Management Corp. Annual Report*, pp. 2-3, available at: <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf> (Last visited April 5, 2019).

⁸⁷ Section 471.023, F.S.

⁸⁸ Section 471.013, F.S.

⁸⁹ Section 471.015(3), F.S.

- Graduated from an FBPE-approved engineering program, passed a licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination, and satisfied the experience requirements; or
- Holds a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

The FBPE may deem an applicant who seeks licensure by endorsement to have passed a qualifying examination if the applicant has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional-level engineering experience.⁹⁰

The FBPE may also deem an applicant who seeks licensure by endorsement who has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 25 years and has had 30 years of continuous professional-level engineering experience.⁹¹

Effect of Proposed Changes

Sections 43 through 46 amend ch. 471, F.S., to delete the requirement that engineers obtain a separate business license (certificate of authorization) in addition to an individual license, but continues to allow an engineering firm to operate in the state. The bill requires a licensed engineer to be responsible for the firm and to qualify their business organization with their individual license. The engineer must inform the DBPR of any change in their relationship with the qualified business within 24 hours, and the business has 60 days to obtain a replacement qualifying engineer. The executive director or chair of the FBPE may authorize another registered engineer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

Section 45 amends s. 471.015(5), F.S., to reduce the number of years that a professional engineer must be licensed in another jurisdiction in order to be deemed to have passed the licensure examinations for a license by endorsement. If such applicant has been licensed in another jurisdiction for:

- 10 years, the applicant is deemed to have passed the fundamentals examination;
- 15 years, the applicant is deemed to have passed both the fundamental examination and the principles and practices examination.

Section 46 of the bill amends s. 471.023(4), F.S., to require the qualifying agent for a business organization to provide notice to the DBPR if the qualifying agent begins to conduct business in their own name or with another business organization. The qualifying agent or the new business organization must submit the required application information.

The qualifying agent must ensure responsible supervising control of all projects of the business organization.

⁹⁰ Section 471.015(5), F.S.

⁹¹ *Id.*

Certified Public Accountants

Present Situation

The Board of Accountancy within the DBPR is charged with regulating the practice of public accountancy in Florida.⁹² To be licensed as a certified public accountant, a person must:⁹³

- Be of good moral character;
- Pass the licensure exam; and
- Have at least 150 semester hours of education, with a focus on accounting and business.

An applicant is eligible for a license by endorsement if he or she:⁹⁴

- Is of good moral character;
- Has completed 80 hours of continuing education if it has been at least 2 years since passing the licensing examination;⁹⁵ and either:
 - Is not licensed, but has otherwise met the licensing requirements and has passed a licensing examination that is substantially equivalent to the Florida examination; or
 - Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license are substantially equivalent to a Florida license or is otherwise permitted.

Effect of Proposed Changes

Section 47 amends s. 473.308, F.S., to delete the requirement that applicants for a license by endorsement who passed a licensing exam more than 2 years prior to the date of application must complete 80 hours of continuing education hours before they are eligible for such license.

Veterinary Medicine

Present Situation

Veterinary medical practice is regulated by ch. 474, F.S.. The Board of Veterinary Medicine licenses veterinarians.⁹⁶

To be licensed as a veterinarian, an applicant must:

- Graduate from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education (AVMAE); or from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World (AVMARVC) and obtained a certificate from the Education Commission for Foreign Veterinary Graduates;

⁹² Department of Business and Professional Regulation, *Certified Public Accounting*, <http://www.myfloridalicense.com/DBPR/certified-public-accounting/> (last visited April 5, 2019).

⁹³ Sections 473.308(2)-(5), F.S.

⁹⁴ Section 468.8414(3), (4), F.S.

⁹⁵ Fla. Admin. Code R. 61H1-29.003 (2019).

⁹⁶ See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board. See also, Department of Business and Professional Regulation, *Veterinary Medicine*, <http://www.myfloridalicense.com/DBPR/veterinary-medicine/> (last visited April 5, 2019).

- Successfully complete the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- Pass an examination of the laws and rules governing the practice of veterinary medicine in Florida.⁹⁷

The Program for the Assessment of Veterinary Education Equivalence (PAVE) is a common alternative pathway for graduates of international, non-accredited programs to practice in the United States. PAVE evaluates such programs on behalf of participating American Association of Veterinary State Boards.⁹⁸

A person who is licensed in another state or country is eligible for licensure by endorsement in Florida, if the person has successfully completed an examination of the laws and rules governing the practice of veterinary medicine in Florida, and either:

- Holds a valid license to practice veterinary medicine in another jurisdiction of the United States for the 3 years immediately preceding the application for licensure, provided that the requirements for licensure are equivalent to or more stringent than a Florida license; or
- Has graduated from an AVMAE or AVMARVC program and has successfully completed an examination which is equivalent to or more stringent than the NAVLE.⁹⁹

The DBPR may not issue a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.¹⁰⁰

A “limited-service veterinary medical practice” means offering or providing limited types of veterinary services for a limited time at any location that has a primary purpose other than providing veterinary medical service at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location,¹⁰¹ and must obtain a permit and register each location where it holds a limited service clinic. A licensed veterinarian must supervise the limited practice.¹⁰²

The Board of Veterinary Medicine establishes by rule minimum standards for the operation of limited service veterinary medical practices,¹⁰³ which currently allows such practices to offer vaccinations, immunizations, and parasitic control services.¹⁰⁴

⁹⁷ Fla. Admin. Code R. 61G18-11.002 (2019).

⁹⁸ American Association of Veterinary State Boards, *International Pathways*, at: <https://www.aavsb.org/pave/> (last visited April 5, 2019).

⁹⁹ Section 474.217(1), F.S.

¹⁰⁰ Section 474.217(2), F.S.

¹⁰¹ Section 474.202(6), F.S.

¹⁰² Section 474.215(7)-(8), F.S.

¹⁰³ Section 474.215(7), F.S.

¹⁰⁴ Fla. Admin. Code R. 61G18-15.007 (2019).

Effect of Proposed Changes

Sections 48 amends s. 474.202(6), F.S., to codify the current board rule allowing limited service veterinary practices to perform vaccinations, immunizations, and parasitic control, and authorizes those practices to perform microchipping.

Section 49 amends s. 474.207, F.S., to allow graduates of a veterinary medicine program recognized by the PAVE to be eligible for licensure as a veterinarian.

Section 50 amends s. 474.217, F.S., to allow an applicant for licensure by endorsement who has been licensed in a jurisdiction of the United States to qualify for licensure in Florida if the applicant has successfully passed a licensing examination that is equivalent, to or more stringent than, the NAVLE.

Barbering

Present Situation:

The term “barbering” in ch. 476, F.S., the Barbers’ Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.¹⁰⁵

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must be at least 16 years of age, pay the application fee, and have held an active valid license in another state for at least one year,¹⁰⁶ or have a minimum of 1,200 hours of training.¹⁰⁷

The Barbers’ Board is responsible for licensing and regulating barbers.¹⁰⁸ Additionally, the Barbers Board establish procedures by rule for a barber school or program to certify a person to take the licensure examination following completion of a minimum of 1,000 hours of training and for the licensure of such person who passes the examination. An applicant who passes the examination is deemed to have satisfied the full 1,200 hour training requirement; an applicant who fails the examination must complete the full 1,200 hour training requirement.¹⁰⁹

Alternatively, a person may apply for and receive a “restricted license” to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers’ Board.¹¹⁰

¹⁰⁵ See s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.

¹⁰⁶ See s. 476.144(5), F.S. Licensure by endorsement may also allow a practitioner holding an active license in another state or country to qualify for licensure in Florida.

¹⁰⁷ See s. 476.114(2), F.S.; requiring the training to include, but is not limited to, the completion of services directly related to the practice of barbering at a licensed school of barbering, a public school barbering program, or a government-operated barbering program in Florida.

¹⁰⁸ Department of Business and Professional Regulation, *Barbers*, <http://www.myfloridalicense.com/DBPR/barbers/> (last visited April 5, 2019). See, s. 476.144, F.S.

¹⁰⁹ See s. 476.114(2), F.S.

¹¹⁰ See s. 476.144(6), F.S.

Effect of Proposed Changes:

Section 51 amends s. 476.144(5), F.S., to require the Barbers' Board to qualify for licensure by endorsement an applicant who holds a current active license to practice barbering in another state.

Nail and Facial Specialists, Hair Braiders; Hair Wrappers, and Body Wrappers***Present Situation:***

Chapter 477, F.S., governs the licensure and regulation of cosmetologists, hair braiders, hair wrappers, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, within the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.¹¹¹ Individuals are prohibited from providing manicures, pedicures, nail painting services, or facials in Florida without a license.¹¹²

A "specialist" is "any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]."¹¹³ The term "specialty" is defined as "the practice of one or more of the following:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive;
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet; or
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services."¹¹⁴

A "cosmetologist" is person licensed to practice cosmetology,¹¹⁵ which is "the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation." Cosmetology also includes hair removal, wax treatments, manicures, pedicures, and skin care services."¹¹⁶

A nail specialist may complete manicures and pedicures, and a full specialist may complete manicures, pedicures, and facials.¹¹⁷ Manicures and pedicures, as a part of cosmetology services,

¹¹¹ See s. 477.015, F.S., and Department of Business and Professional Regulation, *Cosmetology*, <http://www.myfloridalicense.com/DBPR/cosmetology/> (last visited April 5, 2019).

¹¹² See ss. 477.013(6) and 477.0201, F.S.

¹¹³ See s. 477.013(5), F.S.

¹¹⁴ See s. 477.013(6), F.S.

¹¹⁵ See s. 477.013(3), F.S.

¹¹⁶ See s. 477.013(4), F.S. A licensed cosmetologist is not required to register separately as a hair braider, hair wrapper, body wrapper, or specialist.

¹¹⁷ See s. 477.013(6), F.S.

are required to be provided in a licensed specialty salon or cosmetology salon.¹¹⁸ All cosmetology and specialty salons are subject to inspection by the DBPR.¹¹⁹

To qualify for a specialist or cosmetologist license, the applicant must be at least 16 years of age and obtain a certificate of completion from an approved specialty education program.¹²⁰ The applicant must submit a specialist application for registration with the DBPR with a \$75 registration fee.¹²¹ The specialty education program requires 250 hours of training for a nail specialty; 260 hours of training for a facial specialty; and 500 hours of training for a full specialty.¹²²

The application of cosmetic products (makeup) by certain persons is exempted from ch. 477, F.S., under limited conditions, including application of such products in photography studio salons, in connection with certain retail sales, or during the production of qualified films.¹²³ In addition, persons providing makeup in a theme park or entertainment complex to actors and others or the general public are exempt from licensing requirements.¹²⁴

“Hair braiding” is “the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts.”¹²⁵ While “hair wrapping” is the wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.¹²⁶

“Body wrapping” means “a treatment program that uses herbal wraps for the purposes of cleansing and beautifying the skin of the body, but does not include the application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps, or manipulation of the body’s superficial tissue, other than that arising from compression emanating from the wrap materials.”¹²⁷

A person who wishes to practice as a hair braider, hair wrapper, or body wrapper must register with the DBPR, pay the \$25 registration fee; and

- For hair braiders, take a two-day board-approved 16-hour education course consisting of:
 - 5 hours of HIV/AIDS and other communicable diseases,
 - 5 hours of sanitation and sterilization,
 - 4 hours of disorders and diseases of the scalp, and
 - 2 hours of studies regarding laws affecting hair braiding.

¹¹⁸ See s. 477.0263, F.S. Under s. 477.0135(3), F.S., licensing is not required for a person whose occupation is confined solely to cutting, trimming, polishing, or cleansing fingernails of customers in an active, licensed barbershop, and who did so before October 1, 1985.

¹¹⁹ See s. 477.025(9), F.S.

¹²⁰ See s. 477.0201, F.S.

¹²¹ Fla. Admin. Code R. 61G5-22 (2019) and s. 477.0201, F.S.

¹²² Fla. Admin. Code R. 61G5-22 (2019).

¹²³ See ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.

¹²⁴ See s. 477.0135(6), F.S.

¹²⁵ Section 477.013(9), F.S.

¹²⁶ Section 477.013(10), F.S.

¹²⁷ Section 477.013(11), F.S.

- For hair wrappers, take a one-day board-approved 6-hour education course consisting of:
 - HIV/AIDS and other communicable diseases,
 - sanitation and sterilization,
 - disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.
- For body wrappers, take a two-day board-approved 12-hour education course consisting of:
 - HIV/AIDS and other communicable diseases,
 - Sanitation and sterilization,
 - Disorders and diseases of the skin, and
 - Laws affecting body wrapping.¹²⁸

Hair braiders, hair wrappers, and body wrappers are not required to complete continuing education as a condition for renewal of the registration.¹²⁹

In Florida, cosmetology and specialty salons must be licensed.¹³⁰ Such salons are inspected periodically by the DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.¹³¹

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,¹³² except when services are performed in connection with:

- A special event by a properly licensed person who is employed by a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon;¹³³
- A client for reasons of ill health is unable to go to a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon; or
- The motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.¹³⁴

Effect of Proposed Changes:

Section 52 amends s. 477.013(9), F.S., to expand the definition of “hair braiding” to include the weaving of natural human hair with commercial hair, and the use of hair extensions or wefts.¹³⁵ Under current law, the use of hair extensions or wefts is excluded from “hair braiding.”

¹²⁸See s. 477.0132, F.S. Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$250. Examples include: 1STOPCEU.com, <https://www.1stopceu.com/livezilla/knowledgebase.php?article=6332971e65219f8cdfc5d16d8b113c10> (last visited April 5, 2019); and JT’s Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, <http://www.jtbeautysalon.com/> (last visited April 5, 2019).

¹²⁹ Section 477.019(7)(b), F.S.

¹³⁰ Section 477.025(1), F.S.

¹³¹ Section 477.025(9), F.S.; and Fla. Admin. Code R. Ch. 61G5-20 (2019).

¹³² Section 477.0263(1), F.S.

¹³³ A “special event” is defined as a wedding or fashion show in Fla. Admin. Code R. 61G5-20.0015(1) (2019).

¹³⁴ Sections 477.0263(2) through (4), F.S.

¹³⁵ A “weft” of hair is a long curtain of hair that has a seam at the top and is found on wigs and hair extensions. See <https://www.voguewigs.com/what-is-a-weft.html> (last visited April 5, 2019).

Section 53 repeals s. 477.0132, F.S., eliminating registration requirements for hair braiding, hair wrapping, and body wrapping, and requirements that those registrants take specified courses approved by the Board of Cosmetology.

Additionally, the bill repeals s. 477.0132(2), F.S., which provides that:

- Hair braiding, hair wrapping, and body wrapping are not required to be practiced in a cosmetology salon or specialty salon; and
- Disposable implements must be used, or all implements must be sanitized in a disinfectant approved for hospital use or approved by the federal Environmental Protection Agency, when hair braiding, hair wrapping, or body wrapping is practiced outside a cosmetology salon, or specialty salon.

Section 54 amends s. 477.0135, F.S., to specifically exempt a person whose occupation or practice is confined solely to hair braiding, hair wrapping, body wrapping, applying polish to fingernails and toenails, or makeup application from license and registration requirements.

Section 55 amends s. 477.019(6), F.S., to delete the licensure by endorsement exemption for persons licensed in another state who received their license through an apprenticeship program.

Section 56 deletes the requirement in s. 477.026(1)(f), F.S., relating to license fees for hair braiders, hair wrappers, and body wrappers.

Section 57 amends s. 477.0263(4), F.S., to delete the requirement that an appointment for a special event has to be made through a licensed salon. The bill permits a properly licensed professional to perform hair shampooing, hair cutting, and hair arranging outside of a salon.

Section 58 amends s. 477.0265, F.S., to delete a reference to body wrapping in a prohibition respecting the advertising of services.

Section 59 amends s. 477.029(1)(a), F.S., to delete the criminal penalty for hair braiders, hair wrappers, and body wrappers who offer or provide services without being licensed or registered.

Architecture and Interior Design

Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations. The Board of Architecture and Interior Design, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.¹³⁶

The practice or offering of architectural or interior design services to the public through certain business organizations is authorized for:

- Licensees acting through a corporation, limited liability company, or partnership; or

¹³⁶ See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design.

- A corporation, limited liability company, or partnership acting through licensees as agents, employees, officers, or partners.¹³⁷

An architecture or interior design business corporation, limited liability company, partnership, or a person practicing under a fictitious name, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.¹³⁸

Applicants for an interior design license must pass a three-part national examination administered by the National Council for Interior Design Qualification (NCIDQ), at a cost of \$1,065, including the application fee. Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida's licensure prerequisites.¹³⁹

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.¹⁴⁰ A business entity has no regulatory obligations other than to obtain licensure.

Business entities, or persons operating under fictitious names, offering interior design services must also obtain a certificate of authorization. At least one principal officer or partner and all personnel who act on the business entity's behalf in the state must be registered interior designers. The initial license fee for a certificate of authorization is \$100 and the biennial renewal fee is \$125.¹⁴¹

Florida is one of six U.S. states or territories requiring interior designers to be licensed. Approximately 20 other states allow only those persons meeting statutory requirements to hold themselves out as "registered interior designers."¹⁴²

Effect of Proposed Changes:

Sections 60 through 75 amend part I of ch. 481, F.S., to repeal all licensure and regulatory requirements for interior designers and interior design businesses.

Section 1 also amends s. 20.165(4)(a)(2), F.S., to change the name of the Board of Architecture and Interior Design to the Board of Architecture.

Section 62 amends s. 481.205, F.S., to revise the membership of the Board of Architecture to reflect the deregulation of the practice of interior design. The membership of the board is reduced from 11 members to seven members.

¹³⁷ Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.

¹³⁸ Section 481.219(2)-(3), F.S.

¹³⁹ See <http://www.ncidq.org>

¹⁴⁰ See Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2019).

¹⁴¹ Fla. Admin. Code R. 61G1-17.002 (2019).

¹⁴² Commercial Interior Design Association, *State Information*, <http://advocacy.iida.org/#interiordesignlaws> (last visited April 5, 2019).

Section 66 amends s. 481.2131(1), F.S., to allow interior designers who have passed the NCIDQ or the Californian Council for Interior Design Certification examination to submit plans for interior design to a local permitting agency if such agency requires such plans.

Section 69 amends s. 481.219, F.S., to delete the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

Architects who act as qualifying agents must inform the DBPR of any change in their relationship with the qualified business, and if that qualifying agent is the business' only qualifying agent, the business has 60 days to obtain a replacement qualifying architect. If a business does not have a qualifying agent, it may not engage in the practice of architecture, unless the executive director or chair of the Board of Architecture authorizes another registered architect or interior designer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

Section 97 amends s. 553.5141, F.S., relating to the professionals who may serve as a qualified expert to certify a remediation plan as compliant with Title III of the Americans with Disabilities Act in 42 U.S.C. s. 12182, to replace the reference to a licensed interior designer with an interior designer who passed the NCIDQ or the Californian Council for Interior Design Certification examination.

Section 100 amends s. 558.002, F.S., to delete the reference to a licensed interior designer in the definition of the term "design professional" in the context of the process in ch. 558, F.S., for resolving construction defects.

Landscape Architecture Business Organization

Present Situation:

Part II of ch. 481, F.S., governs the licensing and regulation of landscape architects and related business organizations in Florida. The Board of Landscape Architecture, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.

A person may not knowingly practice landscape architecture¹⁴³ unless he or she holds a license issued pursuant to part II of ch. 481, F.S.¹⁴⁴ A corporation or partnership may offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, is a licensed landscape architect;

¹⁴³ The term "landscape architecture" includes but is not limited to the determination of building siting, drainage, and contouring of land and water forms, and other activities including design in connection with land development for the preservation, conservation, enhancement, or determination of proper land uses, natural features, or naturalistic and aesthetic values. See s. 481.303(6)(a)-(d), F.S., relating to the professional services included in landscape architecture.

¹⁴⁴ Section 481.323(1)(a), F.S.

- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect; and
- The corporation or partnership has been issued a certificate of authorization by the board.¹⁴⁵

In order to be licensed as a landscape architect, a person must:

- Complete a landscape architecture degree program approved by the Landscape Architectural Accreditation Board, or have 6 years of practical experience, with some credit available for education credits;¹⁴⁶
- Pass the nationally recognized Landscape Architecture Registration Examination (LARE);¹⁴⁷ and
- Have 1 year of practical experience, not including any experience used to qualify to take the examination.¹⁴⁸

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:¹⁴⁹

- Have graduated from an approved program or have related experience, have an additional year of practical experience, and have passed a licensing examination which is substantially equivalent to the LARE; or
- Hold a valid license to practice landscape architecture issued by another state or territory of the United States, if the criteria for issuance of such license were substantially identical to the licensure criteria which existed in Florida at the time the license was issued.

If an applicant for a license by endorsement has been licensed for at least 5 years in another jurisdiction without disciplinary history, the additional year of practical experience is not required.¹⁵⁰

A landscape architecture corporation or partnership may offer landscape architecture services if:

- One or more of the principals of the corporation, or partners in the partnership, is a licensed landscape architect; and
- The corporation or partnership has been issued a certificate of authorization by the board.¹⁵¹

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.¹⁵² A business entity has no regulatory obligations other than to obtain licensure and notify the DBPR within one month of any change in the information contained in its license application.¹⁵³

¹⁴⁵ Section 481.319(1), F.S.

¹⁴⁶ Section 481.309(1)(b), F.S.

¹⁴⁷ Fla. Admin. Code R. 61G10-11.001 (2019).

¹⁴⁸ Section 481.310, F.S.

¹⁴⁹ Section 481.311(3), F.S.

¹⁵⁰ Fla. Admin. Code R. 61G10-11.004(2)(e) (2019).

¹⁵¹ Section 481.319(1), F.S.

¹⁵² See Fla. Admin. Code R. 61G10-12.002 (2019).

¹⁵³ See s. 481.319(4), F.S.

Effect of Proposed Changes:

Sections 76 through 82 amend part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that landscape architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

The bill repeals the DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation or partnership offering landscape architectural services. Further, the bill repeals the Board of Landscape Architecture's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed one year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, and all of the personnel of the business organization who act in its behalf as landscape architects are registered landscape architects; and
- One or more of the officers, directors, or owners of the corporation, or one or more of the partners of the partnership is a registered landscape architect has applied to be the qualifying agent for the business organization.

Under the bill, landscape architects who qualify a business organization must inform the DBPR within 1 month after any change in the information in the license application for the qualified business. All landscape architects must notify the DBPR of termination of employment with a licensed business organization within one month after the termination.

Section 77 amends s. 481.310, F.S., to provide that an applicant who holds a master's degree in landscape architecture does not have to demonstrate 1 year of practical experience in landscape architecture to qualify for licensure.

Section 78 amends s. 481.311(3), F.S., to provide that a person licensed in another state is also eligible for a license by endorsement if they have:

- Held a valid license to practice landscape architecture in another state or territory of the United States for at least 10 years before the date of application; and
- Successfully completed an examination that is equivalent to or more stringent than the LARE.

The bill also provides that an applicant who has met the requirements to be qualified for a license by endorsement, but has not successfully completed an examination that is equivalent to or more stringent than the LARE examination, may take the LARE without completing additional education requirements.

Section 79 amends s. 481.317(2), F.S., to delete the provision allowing the issuance of a temporary certificate of authorization.

Section 80 repeals s. 481.319(5), F.S., which provides that disciplinary action against a corporation or partnership to be administered similar to disciplinary action against a registered landscape architect. Under current law, practicing landscape architecture through a corporation or partnership does not relieve a landscape architect from personal liability for professional acts, unless otherwise agreed by contract.¹⁵⁴

Construction Contractors

Present Situation

Construction contractors are regulated by part I of ch. 489, F.S., and licensed by the Construction Industry Licensing Board (CILB).

In order to become a construction contractor, an applicant for a license by examination must:¹⁵⁵

- Be of good moral character;
- Be at least 18 years of age;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to a combination of education and experience as approved by the board, which must include at least one year of related experience.

If an applicant wishes to use test scores from a previous examination to qualify for another license type, the examination score used must be from a portion of the examination taken within four years from the date of the most recently passed portion of the examination.¹⁵⁶

A person who is licensed in another state is eligible for licensure by endorsement in Florida if the:

- Criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; or
- State or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state.¹⁵⁷

An unlicensed person may perform work that falls under the scope of contracting if it is casual, minor, or inconsequential in nature, and the aggregate contract price for all labor and materials is less than \$1,000, subject to certain requirements. This is generally called the "handyman exception." The "handyman exception" was enacted in 1979, and the contractual amount to fit within the exception has not been updated since.¹⁵⁸

Effect of Proposed Changes

Section 83 amends s. 489.103(9), F.S., to increase the maximum contract (for total labor and materials) price for the "handyman exception" from \$1,000 to \$2,500.

¹⁵⁴ See s. 481.319(6), F.S., and s. 558.0035, F.S.

¹⁵⁵ Sections 489.111(2)(c)1. through 3., F.S.

¹⁵⁶ Fla. Admin. Code R. 61G4-16.005 (2019).

¹⁵⁷ Section 489.115(3), F.S.

¹⁵⁸ Section 489.103(9), F.S.

The bill clarifies that a licensure examination passage does not expire and may be used at any time to qualify for another license.

Sections 84 and 85 amend ss. 489.111(2)(c)1. and 489.113(1), F.S., respectively, to exempt a license applicant from the license examination if the applicant has a 4-year building construction degree, or another degree approved by the CILB.

Section 86 amends s. 489.115(3), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- Held a valid license to practice the same type of construction contracting in another state or territory for at least 10 years before the date of application; and
- Complied with workers' compensation requirements, shown proof of financial health of their business organization, and submitted fingerprints.

Electrical Contractors

Present Situation

Electrical and alarm system contractors are regulated by part II of ch. 489, F.S., and licensed by the Electrical Contractors' Licensing Board (ECLB).

In order to become an electrical contractor or alarm system contractor, a person must submit an application to the DBPR and must:

- Be at least 18 years of age;
- Be of good moral character;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to a combination of education and experience as approved by the ECLB.¹⁵⁹

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education each every 2 years for license renewal. Such continuing education must include at least 7 hours on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, 1 hour on business practices, and for alarm system contractors and electrical contractors engaged in alarm system contracting, 2 hours on false alarm prevention.¹⁶⁰

A person who is licensed in another state is eligible for licensure by endorsement in Florida if the:

- Criteria for issuance of such license was substantially equivalent to Florida's current certification criteria; or
- State or territory has entered into a reciprocal agreement with the ECLB for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in Florida.

¹⁵⁹ Sections 489.511(1)(a) and (b), F.S.

¹⁶⁰ Section 489.517(4), F.S.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida's examination.¹⁶¹

A "burglar alarm system agent" is a person who is employed by a licensed alarm system contractor or licensed electrical contractor and who has any of the following specific alarm system contracting duties: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.¹⁶²

Before an electrical contractor or alarm system contractor may employ an agent, the agent must complete a minimum of 14 hours of training from an ECLB-approved provider, which includes basic alarm system electronics in addition to related training including CCTV and access control training, with at least two hours of training in the prevention of false alarms.¹⁶³

Effect of Proposed Changes

Section 87 amends s. 489.511(5), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- Held a valid license to practice electrical or alarm system contracting in another state or territory for at least 10 years before the date of application; and
- Complied with workers' compensation requirements, shown proof of financial health of their business organization, and is of good moral character.

Section 88 amends s. 489.517, F.S., to reduce continuing education electrical and alarm system contractors' biennial continuing education requirements from 14 to 7 hours. The bill also reduces the number of hours of continuing education that must be devoted to technical subjects from 7 hours to 1 hour.

Section 89 amends s. 489.518(1)(b), F.S., to allow a burglar alarm system agent to complete their required 14 hour training course within 90 days after employment by an electrical or alarm system contractor.

Professional Geology

Present Situation

A person must be licensed as a professional geologist by the Board of Professional Geologists to practice geology in Florida, which includes performing, or offering to perform, geological services, including consultation, investigation, evaluation, planning, and geologic mapping.¹⁶⁴

In order for a person licensed by another state as a professional geologist to be eligible for licensure by endorsement in Florida, an applicant must

- Be at least 18 years of age;

¹⁶¹ DBPR, *Certified Electrical Contractor – Endorsement*, https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT_DEFN_ID=3688 (last visited April 5, 2019).

¹⁶² Section 489.505(25), F.S.

¹⁶³ Section 489.518(1)(b), F.S.

¹⁶⁴ Section 492.102(7), F.S.

- Not have committed any act or offense which would constitute the basis for disciplining a Florida professional geologist;
- Have graduated with a degree in in geology, or other degree acceptable to the board with at least 30 semester hours or 45 quarter hours of geological coursework;
- Have at least 5 years of professional geological work experience;
- Have an active license in good standing in a jurisdiction of the United States;
- Have passed an examination which has been approved by the board as substantially equivalent to or more stringent than those of Florida; and
- Have successfully passed the laws and rules examination.¹⁶⁵

However, the DBPR may not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of the practice act.¹⁶⁶

A firm, corporation, or partnership may offer geology services to the public, if the business organization has:

- Filed with the Board of Professional Geologists the name and license number of its affiliated licensed geologists;
- Been issued a certification of authorization by the DBPR;
- A license geologist dates, signs, and seals all final geological documents prepared or approved for the entity's use; and
- Files an application with the DBPR.¹⁶⁷

A professional geologist is not relieved of personal liability due to a licensed geologist practicing at the business organization.¹⁶⁸

Any change in the business operating relationship between the business organization and the qualifying geologist must be reported to the DBPR within 30 days.

Applicants for a geology business certificate of authorization must pay an application fee of \$350 and a biennial renewal fee of \$350.¹⁶⁹ There are no additional requirements on the business entity, such as an inspection requirement.

Effect of Proposed Changes

Sections 90 through 94 repeal all provisions that require a certificate of authorization to practice geology through a business organization. A professional geologist may continue to practice through a business organization.

The bill amends 492.108(1), F.S., to provide that a business organization is qualified by the licensed geologist who serves as its geologist of record. The bill requires the qualifying agent is to update the DBPR of any changes in the relationship between the agent and the business

¹⁶⁵ Section 492.105(1), F.S.

¹⁶⁶ Section 492.105(3), F.S.

¹⁶⁷ Section 492.111, F.S.

¹⁶⁸ *Id.*

¹⁶⁹ Fla. Admin. Code R. 61G16-3.001 (2019).

organization within 30 days of such change, but does not specifically require a qualifying agent to notify the DBPR of the initial formation of that relationship.

Section 91 amends s. 492.108(1), F.S., to allow a person licensed in another state to qualify for licensure by endorsement if the applicant has:

- A valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application; and
- Successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the Florida examination.

If the applicant has met the requirements for a license by endorsement but has not successfully completed an examination that is equivalent to or more stringent than the examination required by the board, the applicant may choose to take the examination required by the board.

State Boxing Commission

Present Situation:

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,¹⁷⁰ and mixed martial arts¹⁷¹ by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.¹⁷²

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida¹⁷³ which involves a professional.¹⁷⁴ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.¹⁷⁵ Chapter 548, F.S. does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”¹⁷⁶

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.¹⁷⁷ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.¹⁷⁸ During Fiscal Year 2017-2018, of the 123 amateur events in Florida, the Division of Regulation in the DBPR conducted 37 checks for compliance

¹⁷⁰ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

¹⁷¹ The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

¹⁷² *See* s. 548.003(1), F.S.

¹⁷³ *See* s. 548.006(1), F.S.

¹⁷⁴ The term “professional” means a person who has “received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

¹⁷⁵ *See* s. 548.006(4), F.S.

¹⁷⁶ *See* s. 548.007(6), F.S., and *see supra* note 171 for the definition of “mixed martial arts.”

¹⁷⁷ *See* s. 548.006(3), F.S.

¹⁷⁸ Section 548.002(2), F.S.

with health and safety standards and proper supervision of the events.¹⁷⁹ In Fiscal Year 2017-2018, the Division issued licenses to eight announcers and 13 timekeepers.¹⁸⁰

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, or promoter.¹⁸¹

Effect of Proposed Changes:

Sections 95 and 96 amend ss. 548.003(2) and 548.017, F.S., respectively, to eliminate the licensure requirement for persons serving as timekeepers and announcers for a match involving a participant.

Florida Building Commission

Present Situation

In 2000, the Legislature authorized implementation of the first statewide Florida Building Code (Code), which replaced all local building codes.¹⁸²

The Florida Building Commission (Commission) was created to implement the Code. The Commission, which is housed within the DBPR, is a 27-member technical body responsible for the development, maintenance, and interpretation of the Code. The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate, and include design professionals, contractors, and government experts in the various disciplines covered by the Code. Members, who must be able to do business in the state and must be actively engaged in the designated profession, include the following:¹⁸³

- One architect;
- One structural engineer;
- One air-conditioning or mechanical contractor;
- One electrical contractor;
- One member from fire protection engineering or technology;
- One general contractor;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One residential contractor;

¹⁷⁹ See Department of Business and Professional Regulation, *Florida State Boxing Commission Annual Report, Fiscal Year 2017-2018*, p 5, available at: <http://www.myfloridalicense.com/dbpr/os/documents/Boxing17-18.pdf> (Last visited April 5, 2019).

¹⁸⁰ See Boxing Commission Annual Report, *supra* note 179 at 6.

¹⁸¹ The term “participant” means a professional competing in a boxing, kickboxing, or mixed martial arts match. See s. 548.002, F.S., for the definitions of “participant,” “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer,” “timekeeper,” “referee,” and “announcer” are not defined in ch. 548, F.S.

¹⁸² Chapter 2000-141, Laws of Fla.

¹⁸³ Section 553.74, F.S.

- Three members who are municipal or district code enforcement officials, one of whom is also a fire marshal;
- One member who represents the Department of Financial Services;
- One member who is a county code enforcement official;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state;
- One member of the manufactured buildings industry;
- One mechanical or electrical engineer;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry;
- One member who is a representative of the commercial building owners and managers industry;
- One member who is a representative of the insurance industry;
- One member who is a representative of public education;
- One member who is a swimming pool contractor;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);
- One member who is a representative of a natural gas distribution system;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is the chair.¹⁸⁴

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.¹⁸⁵ TACs are made up of commission members and other parties who advise the commission on declaratory statements, proposed amendments, and any other areas of interest of the commission.¹⁸⁶

Effect of Proposed Changes

Section 98 amends s. 553.74, F.S., to reduce the number of members on the Commission from 27 members to 19 members. The bill:

- Requires the architect member to be licensed pursuant to ch. 481, F.S., with at least 5 years of experience in the design and construction of buildings containing Code designated Group R occupancy at or above 210 feet in height above the elevation of the lowest level of emergency services access;
- Includes the State Fire Marshal or designee as a member;

¹⁸⁴ The chair is appointed by the Governor.

¹⁸⁵ Department of Business and Professional Regulation, *Florida Building Code Online*, https://www.floridabuilding.org/c/c_commission.aspx (last visited on April 5, 2019).

¹⁸⁶ Department of Business and Professional Regulation, *Florida Building Code Standards- Program Committees*, <http://www.myfloridalicense.com/DBPR/building-codes-and-standards/program-committees/> (last visited on April 5, 2019), and Fla. Admin. Code R. 61G20-2.001 (2019).

- Allows the general contractor member to be a certified general contractor or a certified building contractor, and includes the Florida Home Builders Association in the list of associations that are encouraged to recommend a candidate for consideration as the member representing the contractor profession

The bill removes the following types of members from the current membership of the Commission:

- One member from fire protection engineering or technology;
- One member who represents the Department of Financial Services;
- One member who is a county code enforcement official;
- One member who is a representative of a municipality or a charter county;
- One member who is a representative of the commercial building owners and managers industry;
- One member who is a representative of public education;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is solely the chair.

Other Conforming Provisions

Section 102 amends s. 287.055, F.S., relating to the acquisition of professional services offered by “design-build firms” to state agencies, to delete the references to certified engineering and architectural business organizations, and to reference such business organizations as qualified rather than certified.

Effective Date

The bill provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill creates s. 648.412(12), F.S., to require employees of a talent agency to complete a level 1 background screening pursuant to s. 435.03, F.S. This provision requires employees of a talent agency to pay a fee associated with the processing of fingerprints and the background screening by the Florida Department of Law Enforcement (FDLE).¹⁸⁷ The bill addresses additional subjects related to other professions regulated by the DBPR. To the extent the bill imposes a fee on the employees of a talent agency while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, section 19 of the Florida Constitution. Under that section, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹⁸⁸

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill eliminates license or registration costs for auctioneers, interior designers, hair braiders, hair wrappers, body wrappers, talent agents, labor organizations, and timekeepers and announcers. The bill also increases from \$1,000 to \$2,500 the minimum cost of labor and materials for a construction handymen to qualify for the exemption from licensure requirements.

The bill eliminates business license costs for architects, asbestos contractors, landscape architects, and geologists. The bill deletes the requirement that yacht and ship brokers must have a separate license for each branch office.

¹⁸⁷ The FDLE charges license applicants and other persons who are required by law to have a criminal history check a fee of \$37.25, which includes \$24 for the state criminal history check and \$13.25 for the federal criminal history check. See Florida Department of Law Enforcement, Criminal History Record Check Fee Schedule (Jan. 1, 2019), http://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart_January2019.aspx (last visited April 5, 2019). There are also costs associated with services provided by vendors authorized to collect and submit fingerprints to the FDLE. See Department of Business and Professional Regulation, *FAQ's- How much does electronic fingerprinting cost?*, <http://www.myfloridalicense.com/DBPR/fingerprinting/#1509134325601-fbc04f87-5eb4> (last visited April 5, 2019).

¹⁸⁸ FLA. CONST. art. VII, s. 19(d)(1)

The bill reduces pre-licensure and continuing education costs for architects, and electrical and alarm contractors. The DBPR states the specific pre-licensure and continuing education cost savings to these licensees are difficult to determine, but anticipates costs to be reduced by one-third to one-half of current fees.¹⁸⁹

The bill requires employees of a talent agency to incur costs related to completing a level 1 background screening pursuant to s. 435.03, F.S.¹⁹⁰

C. Government Sector Impact:

The DBPR anticipates a revenue reduction of \$3,910,120 for the next three fiscal years (Fiscal Years 2019-2020 to 2021-2022).

The DBPR also anticipates a corresponding reduction of approximately \$312,810 in the eight percent revenue service charge sent to General Revenue (non-operating expenditure) for the next three fiscal years (Fiscal Years 2019-2020 to 2021-2022).

The DBPR will see a reduction in expenditures related to the reduction in workload due to the deregulation under the bill. The DBPR's estimated expenditure reductions are \$135,900 in Fiscal Year 2019-2020, \$141,100 in Fiscal Year 2020-2021, and \$147,800 in Fiscal Year 2021-2022.¹⁹¹

The bill retains the regulation of talent agencies, but limits that regulation to agencies representing artists under age 18. The program is operating under a deficit. According to the DBPR:

Due to the small number of licensees, talent agencies do not generate sufficient funds to cover the Department's cost of regulation. The program was created in 1986. The Department issued the first licenses during Fiscal Year 1987-1988 at the statutory cap of \$400 per license. The program has operated in a deficit since that time. The Department anticipates that the deficit will continue.¹⁹²

VI. Technical Deficiencies:

None.

¹⁸⁹ See Department of Business and Professional Regulation, *SB 827 Agency Analysis*, 14 (Mar. 31, 2019) (on file with Senate Committee on Innovation, Industries, and Technology).

¹⁹⁰ *Supra* note 193.

¹⁹¹ *Id.* at page 13.

¹⁹² See Department of Business and Professional Regulation, *Divisions of Professions, Accounting, Real Estate and Regulation 2017-2018 Annual Report*, 23, <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited Apr. 5, 2019); and Talent Agents Operating Account information at page 87, showing a projected negative account balance of \$615,700 for the fiscal year ending June 30, 2019.

VII. Related Issues:

Sections 33 through 36 of the bill amend part VII of ch. 468, F.S., to limit the license requirements for talent agencies. Under the bill, a talent agency is not required to be licensed if it does not represent an artist younger than 18 years of age. The bill does not repeal the prohibition in s. 468.415, F.S., against sexual misconduct. Under the bill, a person who violates the prohibition against sexual misconduct in this section is permanently prohibited from acting as an agent, owner, or operator of a Florida talent agency. However, if the violator is a person who is exempt from the license requirement because he or she does not represent an artist under 18 years of age, the bill does not provide a remedy or other penalty if such a person is acting as an agent, owner, or operator of a Florida talent agency after being permanently barred from the profession. The existing criminal penalties in s. 648.413, F.S., for violation involving certain prohibited acts do not apply to the sexual misconduct prohibition in s. 468.415, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.165, 287.055, 326.004, 447.02, 447.09, 447.305, 455.213, 468.382, 468.388, 468.389, 468.391, 468.401, 468.408, 468.412, 468.415, 468.524, 468.613, 468.8314, 468.8414, 469.006, 469.009, 471.005, 471.011, 471.015, 471.023, 473.308, 474.202, 474.207, 474.217, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 477.0263, 477.0265, 477.029, 481.201, 481.203, 481.205, 481.207, 481.209, 481.213, 481.2131, 481.215, 481.217, 481.219, 481.221, 481.222, 481.223, 481.229, 481.231, 481.303, 481.310, 481.311, 481.317, 481.319, 481.321, 481.329, 489.103, 489.111, 489.113, 489.115, 489.511, 489.517, 489.518, 492.104, 492.108, 492.111, 492.113, 492.115, 548.003, 548.017, 553.5141, 553.74, 553.79, 558.002, and 559.25.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 468.381, 468.384, 468.385, 468.3851, 468.3852, 468.3855, 468.386, 468.387, 468.392, 468.393, 468.394, 468.395, 468.396, 468.397, 468.398, 468.399, 477.0132, and 481.2251.

IX. Additional Information:

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

CS by Innovation, Industry, and Technology on April 2, 2019:

The committee substitute:

- Amends s. 455.213(13), F.S., to require the DBPR (or a board) to enter into reciprocal licensing agreements with other states when it determines another state’s licensing and examination requirements are “substantially equivalent or more stringent” (instead of “substantially similar”) to Florida’s;
- Amends the definition of “talent agency” in s. 468.401(1), F.S., to limit license requirements for talent agencies that represent artists younger than 18 years old;
- Retains current law on the duties of the DBPR related to talent agency licensing, including eligibility requirements, associated fees, bonding, required notices, and recordkeeping by talent agencies;

- Creates s. 648.412(12), F.S., to require employees of a talent agency to undergo background screenings;
- Retains current law for talent agencies that represent artists under 18 years of age, and removes the following provisions from the bill related to the regulation of talent agencies: ss. 468.402, 468.403, 468.404, 468.405, 468.406, 468.407, 468.409, 468.410, 468.413, and 468.414, F.S.;
- Does not amend s. 476.114(2)(c)2., F.S., to reduce the minimum hours of training to qualify for a barber license and to specify training requirements.
- Does not amend s. 477.0201, F.S., to revise the training requirements for cosmetology specialists;
- Does not amend 477.019,(6), F.S., to delete the provision prohibiting the Board of Cosmetology from requiring proof of education from an applicant for endorsement that the other jurisdiction’s licensure requirements require 1,200 or more training hours and passage of a written examination; and
- Amends s. 553.74, F.S., to relating to the membership of the Florida Building Commission, to:
 - Remove the option of “electrical engineer” as an alternate for the electrical contractor board member;
 - Add the State Fire Marshal or designee as a member; and
 - Retains current law for a board member who is a “mechanical or electrical engineer,” who may be recommended by the Florida Engineering Society.

B. Amendments:

None.