

Tab 1	CS/SB 474 by IT, Albritton; (Compare to H 00077) Deregulation of Professions and Occupations						
502686	A	S	RS	CM, Albritton	Delete L.704:	02/04 11:18 AM	
865724	SA	S	RCS	CM, Albritton	Delete L.207 - 1318:	02/04 11:18 AM	
<del>538138</del>	A	S	WD	CM, Albritton	Delete L.863 - 894:	02/04 11:18 AM	
<del>510452</del>	A	S	WD	CM, Albritton	Delete L.1080 - 1085:	02/04 11:18 AM	
867106	A	S	RCS	CM, Albritton	btw L.1605 - 1606:	02/04 11:18 AM	
569536	A	S	RCS	CM, Albritton	Delete L.1853 - 1878:	02/04 11:18 AM	
751274	A	S	RCS	CM, Albritton	Delete L.1883 - 1899:	02/04 11:18 AM	
891252	A	S	RCS	CM, Albritton	Delete L.1932 - 1943:	02/04 11:18 AM	
<del>688848</del>	A	S	WD	CM, Albritton	Delete L.2000 - 2114:	02/04 11:18 AM	
782978	A	S	RCS	CM, Albritton	btw L.2119 - 2120:	02/04 11:18 AM	
Tab 2	SB 660 by Berman; (Similar to H 00783) Uniform Commercial Real Estate Receivership Act						
258940	A	S	RCS	CM, Berman	Delete L.237 - 636:	02/04 11:18 AM	
Tab 3	SB 850 by Pizzo; Exposure of Sexual Organs						
Tab 4	SR 1704 by Flores; (Similar to H 08021) Taiwan						
Tab 5	SB 1140 by Gruters; (Identical to H 00867) Public Accountancy						
Tab 6	SB 1240 by Gruters; Corporate Income Tax Credit						
306312	A	S	RCS	CM, Gruters	Delete L.20:	02/04 11:17 AM	
Tab 7	SB 1642 by Gruters; Tax Exemptions						
854736	D	S	RCS	CM, Gruters	Delete everything after	02/04 11:17 AM	

**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.)

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

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BILL: CS/CS/SB 474

INTRODUCER: Commerce and Tourism Committee and Senator Albritton

SUBJECT: Deregulation of Professions and Occupations

DATE: February 5, 2020

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<b>Fav/CS</b>
2. <u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
3. _____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 474 relates to businesses and professions regulated by the Department of Business and Professional Regulation (DBPR) and health professionals regulated by the Department of Health (DOH). The bill:

- Repeals the authority of the DOH to suspend or revoke a professional license because of a default on a student loan or failure to comply with service scholarship obligations;
- Waives the requirement to pass the commercial driver skills test for a military service member or veteran with the specified training;
- Preempts the regulation of mobile food dispensing vehicles (food trucks) to the state, prohibits local government from requiring a license, registration, or permit, and prohibits local governments from prohibiting the operation of food trucks; and
- Revises the membership of the Florida Building Commission.

The bill repeals registration requirements for labor organizations and their business agents, and license or registration requirements for the following professions regulated by the DBPR:

- Hair braiders, hair wrappers, and body wrappers; and
- Boxing announcers and timekeepers.

The regulation of interior design is revised by the bill to provide for a voluntary certificate of registration to practice interior design in place of the current license requirement. Under the amendment, the certificate of registration is not required to practice interior design. To qualify for registration, an interior designer must have satisfactorily passed a qualification examination.

Only a registered interior designer may use a seal issued by the DBPR when submitting documents for the issuance of a building permit. The bill imposes a nonrefundable biennial fee of no more than \$75 for a certificate of registration for interior designers.

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:

- Auctioneers;
- Architects and interior designers; and
- Landscape architects.

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

- Building code administrators and inspectors;
- Home inspectors;
- Engineers;
- Certified public accountants;
- Veterinarians;
- Barbers;
- Cosmetologists;
- Construction and electrical and alarm contractors; and
- Landscape architects.

For barbers, the bill reduces the minimum number of hours of training required for licensure from 1200 hours to 900 hours. For cosmetologists, the bill reduces the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours. The bill also reduces the number of training hours required to be registered as a nail, facial, or full specialist.

A fiscal analysis for CS/CS/SB 474 was not available for the preparation of this bill analysis. According to DBPR, the elimination of licensing requirements under SB 474 will reduce state government revenues (DBPR) by \$3,143,723 over the next three fiscal years (FY 2020-21 to FY 2022-23). For the regulation of professions, a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23. The reduction related to the deregulation of business agent and labor organization license fee reduction is anticipated to be \$830 annually. For the Boxing Commission, the revenue reduction is approximately \$1,450 annually. For the Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) the revenue reduction is approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23. As a result of the revenue reduction, there will be a reduction in the 8 percent service charge to General Revenue of approximately \$96,220 in Fiscal Year 2020-21, \$45,952 in Fiscal Year 2021-22, and \$109,326 in Fiscal Year 2022-23. (See section V. Fiscal Impact Statement.)

Except as otherwise expressly provided in the act, the bill takes effect on July 1, 2020.

## **II. Present Situation:**

For ease of reference, the Present Situation for each section of CS/CS/SB 474 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) 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.<sup>1</sup> The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.<sup>2</sup>

### **Powers and Duties of the DBPR**

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,”<sup>3</sup> as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.<sup>4</sup>

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,”<sup>5</sup> 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;

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<sup>1</sup> Section 548.003(1), F.S.

<sup>2</sup> See Parts I and III of ch. 450, F.S.

<sup>3</sup> See s. 455.01(6), F.S.

<sup>4</sup> 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 at the DBPR. See s. 455.221(1), F.S.

<sup>5</sup> Section 455.201(2), F.S.

- 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.<sup>6</sup>

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.<sup>7</sup>

### **DBPR Boards**

Fifteen boards and programs exist within the Division of Professions,<sup>8</sup> two boards are within the Division of Real Estate, and one board exists in the Division of Certified Public Accounting.

### **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 the required revenue to implement the regulatory laws affecting the profession.<sup>9</sup>

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.<sup>10</sup> Those who are granted licenses are referred to as licensees.<sup>11</sup>

In Fiscal Year 2018-2019, the Division of Accountancy had 39,591 active licensees, the Real Estate Commission had 293,012 active licensees, and the Board of Professional Engineers had 65,196 licensees.<sup>12</sup> In Fiscal Year 2018-2019, there were 439,821 active licensees in the Division of Professions,<sup>13</sup> including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;

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<sup>6</sup> *Id.*

<sup>7</sup> Section 455.201(4)(b), F.S.

<sup>8</sup> 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.

<sup>9</sup> Section 455.219(1), F.S.

<sup>10</sup> Section 455.01(4), F.S.

<sup>11</sup> Section 455.01(5), F.S.

<sup>12</sup> Florida Department of Business and Professional Regulation, *Fiscal Year 2018-2019 Annual Report*, page 19, available at: [http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport\\_FY1819.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf) (last visited Feb. 4, 2020).

<sup>13</sup> Of the total 460,857 licensees in the Division of Professions, 21,036 were inactive. *See supra* note 12.

- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Harbor pilots;
- Landscape architects;
- Mold-related services;
- Talent agencies; and
- Veterinarians.

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. 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).<sup>14</sup>

### **III. Effect of Proposed Changes:**

For ease of reference to each of the subjects addressed in CS/CS/SB 474, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

#### **Commercial Driver's License**

##### ***Present Situation***

Section 322.57, F.S., requires a person who drives any of the following types of vehicles to obtain an endorsement on his or her driver's license acknowledging successful completion of a skills test concerning the safe operation of such vehicle:

- A double or triple trailer;
- A passenger vehicle;
- A school bus;
- A tank vehicle;

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<sup>14</sup> Section 720.306(9)(c), F.S.

- A vehicle that transports hazardous materials and that is required to be placarded in accordance with 49 C.F.R. part 172, subpart F;
- A tank vehicle transporting hazardous materials; and
- A motorcycle.

### ***Effect of Proposed Changes***

**Section 2** of the bill amends s. 322.57(4), F.S., to waive the requirement to pass the commercial driver skills test for a military service member or veteran with specified training, including having at least 2 years of experience in military service driving vehicles that would otherwise require a commercial driver license to operate. To qualify for the waiver, the person must have been honorably discharged from military service within 1 year of the application for the waiver. The person must complete every other requirement for a commercial driver's license within 1 year of receiving a waiver.

## **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 Division of Florida Condominiums, Timeshares and Mobile Homes of the DBPR, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.<sup>15</sup>

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.<sup>16</sup> 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.<sup>17</sup> Applicants for a branch office license pay a \$100 fee, and the license must be renewed every 2 years.<sup>18</sup>

### ***Effect of Proposed Changes***

**Section 3** of the bill amends s. 326.004(13), F.S., to delete the requirement for a separate license for each branch office maintained by a yacht and ship broker. The current law 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 oversees the licensing and regulation of labor organizations. The Division of Regulation processes license applications

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<sup>15</sup> See ch. 326, F.S., and, Department of Business and Professional Regulation, *Yacht and Ship*, available at: <http://www.myfloridalicense.com/DBPR/yacht-and-ships/> (last visited Feb. 4, 2020).

<sup>16</sup> Section 326.004(1), F.S.

<sup>17</sup> Section 326.004(13), F.S.

<sup>18</sup> See Fla. Admin. Code R. 61B-60.002 (2019).

and regulates the activities of labor unions and their officers, agents, organizers, and representatives.<sup>19</sup>

A labor organization is defined as “any 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.”<sup>20</sup>

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.<sup>21</sup> Business agents are defined as “any person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of 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.”<sup>22</sup>

Applicants for a business agent license must pay a \$25 license fee and must meet a number of licensure requirements.<sup>23</sup> Labor organization applicants must pay an annual fee of \$1.<sup>24</sup>

### ***Effect of Proposed Changes***

**Sections 4 through 12** of the bill amend ch. 447, F.S., to eliminate 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 organizations. Provisions relating to the right to work and strike, recordkeeping, rights of franchise for labor organizations, civil causes of action, criminal penalties, and recognition of federal regulations are not affected by the bill.

### **Reciprocal Licensing by the DBPR**

#### ***Present Situation***

Section 455.213, F.S., provides general licensing provisions for the DBPR. Some professions licensed by the DBPR authorize the DBPR or the applicable board to issue a license by endorsement (reciprocity) to a person 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.<sup>25</sup>

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<sup>19</sup> Section 447.01, F.S., and *See* The Department of Business and Professional Regulation, *Labor Organizations and Business Agent*, available at: <http://www.myfloridalicense.com/DBPR/labor-organizations-and-business-agents/> (last visited Feb. 4, 2020).

<sup>20</sup> Section 447.02(1), F.S.

<sup>21</sup> Sections 447.04(2) and 447.06, F.S.

<sup>22</sup> Section 447.02(2), F.S.

<sup>23</sup> Section 447.04(2), F.S.

<sup>24</sup> Section 447.06(2), F.S.

<sup>25</sup> *See*, for example, s. 477.019(6), F.S., relating to licensure by endorsement for a person licensed as a cosmetologist in another state.



***Effect of Proposed Changes***

**Section 13** of the bill amends s. 455.213, F.S., to require the department or board to enter into reciprocal licensing agreements with other states when permitted by the practice act for a profession. The bill requires the department 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 requirements in Florida.

**Healthcare Practitioner Discipline – Student Loan Obligations*****Present Situation*****Healthcare Practitioner Licensing**

The Division of Medical Quality Assurance (MQA) within the Florida Department of Health (DOH) is responsible for the licensing and regulation of healthcare practitioners in the state. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 200 license types in over 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA. The MQA regulates the following professions:

- Acupuncturists;
- Athletic Trainers;
- Chiropractors;
- Clinical Laboratory Personnel;
- Clinical Social Workers, Marriage and Family Counselors, and Mental Health Counselors;
- Dentists;
- Hearing Aid Specialists;
- Massage Therapists;
- Medical Doctors;
- Nurses;
- Nursing Home Administrators;
- Occupational Therapists;
- Opticians;
- Optometrists;
- Orthotists and Prosthetists;
- Osteopathic Doctors;
- Pharmacists;
- Physical Therapists;
- Podiatrists;
- Psychologists;
- Respiratory Care Practitioners;
- Speech-Language Pathologists and Audiologists;
- Dietetics and Nutrition Practitioners;
- Electrologists;
- Licensed Midwives;
- Physician Assistants;

- Certified Master Social Workers;
- Emergency Medical Technicians;
- Medical Physicists;
- Paramedics;
- Radiologic Technicians; and
- School Psychologists.

### **Healthcare Practitioner Discipline**

Section 456.072(1)(k), F.S., provides that the DOH may discipline a healthcare practitioner for failing to perform any statutory or legal obligation placed upon a healthcare practitioner, which specifically includes failing to repay a government-backed student loan or comply with a service scholarship obligation. If the DOH finds that a healthcare practitioner has defaulted on his or her student loans or failed to comply with a service scholarship, at a minimum, the DOH must:

- Suspend the practitioner's license until he or she agrees to new loan repayment terms or resumes the scholarship obligation;
- Place the practitioner on probation for the duration of the student loan or scholarship obligation period; and
- Impose a fine equal to 10 percent of the defaulted loan amount.

Each month, the DOH must obtain information from the United States Department of Health and Human Services (USDHHS) necessary to determine the Florida healthcare practitioners that have defaulted on government-backed student loans.<sup>26</sup> Upon learning that a healthcare practitioner has defaulted on such a student loan, the DOH must notify the practitioner that he or she has 45 days to provide the DOH with proof of a new repayment plan, or such practitioner will be subject to an emergency order suspending the practitioner's license.<sup>27</sup> The DOH may proceed with additional disciplinary action against the practitioner, regardless if he or she provides proof of entering a new repayment plan.<sup>28</sup>

In the 2017-2018 fiscal year, the DOH reported 850 student loan defaults, 76 completed investigations, and 26 emergency suspension orders filed.<sup>29</sup> In the 2018-2019 fiscal year, the DOH reported 87 student loan defaults, 250 completed investigations, 121 emergency suspension orders filed, and further disciplinary action taken on 29 licensees.<sup>30</sup> In 2018-2019, the most affected licensed professions were Certified Nursing Assistant (43 suspension orders) and Registered Nurse (18 suspension orders).<sup>31</sup>

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<sup>26</sup> Section 456.0721, F.S.

<sup>27</sup> See s. 456.074, F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2017-2018, Table 14: Student Loan Defaults*, at 44, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1718.pdf> (last visited Feb. 4, 2019).

<sup>30</sup> Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2018-2019, Table 14: Student Loan Defaults*, at 43, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1819.pdf> (last visited Feb. 4, 2019).

<sup>31</sup> *Id.*

### *Effect of Proposed Changes*

**Sections 14 through 16** of the bill repeal the authority of the DOH requirements to suspend or revoke a professional license because of a default on a student loan or failure to comply with service scholarship obligations. Specifically, the bill:

- Amends s. 456.072, F.S., to remove a licensee's failure to repay a federal- or state-guaranteed student loan or failure to comply with service scholarship obligations from the list of violations for which the DOH may take disciplinary action;
- Amends s. 456.074, F.S., to remove the requirement that the DOH notify a health care practitioner in default on a student loan that he or she is subject to suspension of a license unless the practitioner provides proof of repayment terms within 45 days of the notification; and
- Repeals s. 456.0721, F.S., to remove the requirement that the DOH obtain monthly reports from the USSHHS regarding health care practitioners who have failed to repay a student loan or comply with scholarship service obligations.

### **Auctioneers**

#### *Present Situation*

Auction businesses, auctioneers, and apprentice auctioneers are licensed and regulated in accordance with part VI of ch. 468, F.S., and by the Florida Board of Auctioneers within the DBPR. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the auctioneering industry.

An 'auction business' is a "sole proprietorship, partnership, or corporation which in the regular course of business arranges, manages, sponsors, advertises, promotes, or carries out auctions, employs auctioneers to conduct auctions in its facilities, or uses or allows the use of its facilities for auctions."<sup>32</sup>

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.<sup>33</sup>

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

- Be 18 years or older;
- Have not 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 has served as an apprentice for 1 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.<sup>34</sup>

The Florida Board of Auctioneers assesses a variety of fees for licensure as an auctioneer, including application fees, examination fees, initial license fees, and renewal fees. For example,

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<sup>32</sup> Section 468.382(1), F.S.

<sup>33</sup> Sections 468.385(2) and 468.383, F.S.

<sup>34</sup> Sections 468.385(6), F.S.

the application fee for an auctioneer license through examination is \$50, the examination fee is \$250 payable to the DBPR plus \$10 payable to the testing service, and the initial license fee for an auctioneer is \$150.<sup>35</sup>

An auctioneer may be disciplined or have a civil action brought against them by the DBPR for one of the following violations:<sup>36</sup>

- 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;
- False, deceptive, misleading, or untruthful advertising;
- Bad faith or 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
- Other violations of the practice act.

An auctioneer commits a third degree felony for certain violations of the practice act, including:<sup>37</sup>

- Failing to return money or property within 30 days of control of such money or property;
- 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.

There is no continuing education requirement for auctioneers or auctioneer apprentices.

There were 2,600 active licensed auctioneers and 24 disciplinary orders issued in the 2018-2019 fiscal year.<sup>38</sup>

### *Effect of Proposed Changes*

**Section 17** of the bill amends s. 468.385, F.S., to remove the requirement that an auction business must be licensed. Instead, it requires an auction business to be owned by an auctioneer who is licensed by the DBPR.

**Section 73** of the bill amends s. 559.25(3), F.S., to delete the exemption for licensed auctioneers from compliance with requirements relating to fire and going-out-of-business sales and auctions.<sup>39</sup>

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<sup>35</sup> See Fla. Admin. Code R. 61G2-3.001 (2019).

<sup>36</sup> Section 468.389, F.S.

<sup>37</sup> Section 468.391, F.S.

<sup>38</sup> *Supra* note 12 at pp. 19 and 90.

<sup>39</sup> See s. 559.21, F.S., relating to the regulation of sales.

## **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).<sup>40</sup>

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.<sup>41</sup>

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;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- One and two family dwelling inspector; and
- Electrical inspector.<sup>42</sup>

A one and two family dwelling inspector may only inspect one and two family dwelling and accessory structures.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes.<sup>43</sup> A plans examiner's ability to practice is limited to the category or categories the plans examiner is certified in. The plans examiner categories are:

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.<sup>44</sup>

In order to become licensed, building code administrators, inspectors, and plans examiners must take 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:<sup>45</sup>

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<sup>40</sup> Section 468.605, F.S.

<sup>41</sup> Section 468.603(1), F.S.

<sup>42</sup> Section 468.603(6), F.S.

<sup>43</sup> Section 468.603(7), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> Section 468.609(3), F.S.

- 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
- Have 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:<sup>46</sup>

- Have 4 to five 5 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 firesafety 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 firesafety inspection, and completed a training program of not less than 200 hours in the new category sought; or
  - 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 firesafety inspector; or
  - Complete a 4 year internship certification program.

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:<sup>47</sup>

- Meet experience, educational, or training program requirements;
- Complete the Florida principle and practice exam; and
- Complete the relevant International Codes Council (ICC) exams for the category sought.

There were 9,056 active licensed building code administrators and inspectors and six disciplinary orders issued in the 2018-2019 fiscal year.<sup>48</sup>

### *Effect of Proposed Changes*

**Section 18** of the bill amends s. 468.603(5)(f), F.S., to rename the license category of “one and two family dwelling inspector” with the term “residential inspector.” The term is also redefined to include inspections of one-family, two-family, or three-family residences not exceeding two habitable stories or more than one uninhabitable story and accessory use structure in connection to the residence.

<sup>46</sup> Section 468.609(2), F.S.

<sup>47</sup> Section 468.613, F.S.; and Fla. Admin. Code R. 61G19-6.0035(4) (2019).

<sup>48</sup> *Supra* note 12 at pp. 19 and 90.

**Section 19** of the bill 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;
- Is of 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.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years after such license was last active.

## **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.

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.<sup>49</sup>

A person who is licensed in another state is eligible for a license by endorsement in Florida if the person:<sup>50</sup>

- 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
- Passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination.

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.<sup>51</sup>

There were 7,090 active licensed home inspectors and four disciplinary orders issued in the 2018-2019 fiscal year.<sup>52</sup>

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<sup>49</sup> Section 468.8313, F.S.

<sup>50</sup> Section 468.8414(3), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Supra* note 12 at pp. 19 and 90.

### ***Effect of Proposed Changes***

**Section 20** of the bill amends s. 468.8314(3), F.S., to provide an additional means for an applicant to qualify for licensure by endorsement if the applicant:

- Maintains a commercial general liability insurance policy in an amount equal to or greater 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.

Under the bill, an application for a license by endorsement must be made when the applicant's license in another state or territory is active or within 2 years of such license being active.

### **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.<sup>53</sup>

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. Prior to being permitted to sit for the fundamentals examination, an applicant must graduate from an approved engineering curriculum of 4 years or more in an FBPE-approved school, college, or university, and have a record of 4 years of active engineering experience.<sup>54</sup>

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if the person:<sup>55</sup>

- Graduated from an FBPE-approved engineering program, has passed a licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination, and has 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 was substantially the same as the licensure criteria that existed in this state at the time the license was issued.

The FBPE may deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 15 years and has 20 years of continuous professional-level engineering experience.<sup>56</sup>

The FBPE may also deem that an applicant who seeks licensure by endorsement who has passed an examination substantially equivalent to the fundamentals examination and the principles and

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<sup>53</sup> Section 471.038(3), F.S.

<sup>54</sup> Section 471.013, F.S.

<sup>55</sup> Section 471.015(3), F.S.

<sup>56</sup> Section 471.015(5), F.S.



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.<sup>57</sup>

### ***Effect of Proposed Changes***

**Section 21** of the bill amends s. 471.015(5), F.S., to reduce the number of years that a professional engineer must be licensed in another jurisdiction 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. If such applicant has been licensed in another jurisdiction for 15 years, the applicant is deemed to have passed both the fundamental examination and the principles and practices examination.

The bill deletes the requirement that an applicant for endorsement have the applicable number of continuous professional-level engineering experience, i.e., 20 years for an applicant who is deemed to have passed the fundamentals examination, or 25 years for an applicant who is deemed to have passed both the fundamental examination and the principles and practices examination.

### **Certified Public Accountants**

#### ***Present Situation***

The Florida Board of Accounting (board) in the DBPR is the agency responsible for regulating and licensing nearly 35,570 active and inactive CPAs and more than 5,700 accounting firms in Florida.<sup>58</sup> The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.<sup>59</sup>

A certified public accountant is a person who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.<sup>60</sup>

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.<sup>61</sup> To engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S., an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

To be licensed as a certified public accountant, a person must:<sup>62</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *Supra*, note 12 at p. 12.

<sup>59</sup> Section 473.303, F.S.

<sup>60</sup> See s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

<sup>61</sup> Section 473.302(8), F.S.

<sup>62</sup> Sections 473.308(2)-(5), F.S.

- 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.

Section 473.308, F.S., provides for the licensure of individuals desiring to be licensed as a certified public accountant. Section 473.308(7), F.S., provides for licensure of certified public accountants by endorsement. To qualify for licensure by endorsement, the applicant must satisfy education, work experience, and good moral character requirements. Applicants for endorsement must also have completed continuing education courses that are equivalent to the continuing education requirements in this state during the 2 years immediately preceding the application for licensure by endorsement.

If the applicant is not licensed in another state or territory, the applicant must:<sup>63</sup>

- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida certified public accountant.

If the applicant is licensed in another state or territory, the applicant must:<sup>64</sup>

- Have satisfied licensing criteria that was substantially equivalent to the licensure criteria in this state at the time the license was issued, or if the licensing criteria was not substantially equivalent to Florida's, the applicant must have passed a national, regional, state or territorial licensing examination with examination criteria that was substantially equivalent to the examination criteria required in Florida;
- Have a valid license in another state or territory for at least 10 years before applying for a license in Florida; and
- Have passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state.

### ***Effect of Proposed Changes***

**Section 22** of the bill amends s. 473.308, F.S., to delete the requirement that during the 2 years immediately preceding the application for licensure, applicants for a license by endorsement must have completed 80 hours of continuing education before they are eligible for such license.

## **Veterinary Medicine**

### ***Present Situation***

Veterinary medical practice is regulated by ch. 474, F.S., and veterinarians are licensed by the Board of Veterinary Medicine.<sup>65</sup>

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<sup>63</sup> Section 473.308(7)(a), F.S.

<sup>64</sup> Section 473.308(7)(b), F.S.

<sup>65</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

A veterinarian is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,<sup>66</sup> which is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.<sup>67</sup>

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 obtain a certificate from the Education Commission for Foreign Veterinary Graduates;
- Successfully complete the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- Successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida.<sup>68</sup>

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.<sup>69</sup>

A person who is licensed in another state or country is eligible for licensure by endorsement in Florida, if the person has:<sup>70</sup>

- 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.

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.<sup>71</sup>

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

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<sup>66</sup> See s. 474.202(11), F.S.

<sup>67</sup> See s. 474.202(9), F.S. The profession also includes determining the health, fitness, or soundness of an animal, and performing any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

<sup>68</sup> Fla. Admin. Code R. 61G18-11.002 (2019).

<sup>69</sup> American Association of Veterinary State Boards, *International Pathways*, available at: <https://www.aavsb.org/pave/> (last visited Feb. 4, 2020).

<sup>70</sup> Section 474.217(1), F.S.

<sup>71</sup> Section 474.217(2), F.S.

providing veterinary medical services at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location,<sup>72</sup> and must obtain a permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.<sup>73</sup>

The board establishes, by rule, minimum standards for the operation of limited service veterinary medical practices,<sup>74</sup> which currently allows such practices to offer vaccinations, immunizations, and parasitic control services.<sup>75</sup>

### ***Effect of Proposed Changes***

**Section 23** of the bill 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 24** of the bill 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 25** of the bill 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.

**Section 71** of the bill authorizes employees, agents, or contractors of qualifying public or private animal shelters, humane organizations, or animal control agencies to implant cats and dogs with specified microchips.

## **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, applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.<sup>76</sup>

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

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<sup>72</sup> Section 474.202(6), F.S.

<sup>73</sup> Section 474.215(7)-(8), F.S.

<sup>74</sup> Section 474.215(7), F.S.

<sup>75</sup> Fla. Admin. Code R. 61G18-15.007 (2019).

<sup>76</sup> 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.

- Have held an active valid license in another state for at least 1 year,<sup>77</sup> or have a minimum of 1,200 hours of specified training.<sup>78</sup>

The Barbers' Board is authorized to establish by rule a procedure 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. Upon passage of the examination by the person seeking licensure, the training requirement of 1,200 hours is deemed satisfied; failing the examination requires completion of the full training requirement.<sup>79</sup>

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.<sup>80</sup> An applicant for a restricted barber license must satisfactorily complete 600 hours of training.<sup>81</sup>

### ***Effect of Proposed Changes***

**Section 26** of the bill amends s. 476.114(2)(c)2., F.S., to decrease the minimum number of hours of training required for licensure from 1200 hours to 900 hours. The bill also provides that the training must be in sanitation, safety, and laws and rules.

**Section 27** of the bill amends s. 476.144(5), F.S., to require the Barbers' Board to provide licensure by endorsement to an applicant who holds a current active license to practice barbering in another state.

The bill amends s. 477.019(6), F.S., relating to the licensing of a cosmetologist by endorsement, to provide a comparable provision for barbers. However, under the bill, an applicant for a cosmetology license by endorsement is required to complete a 2-hour course on human immunodeficiency virus and acquired immune deficiency syndrome. The bill does not require an applicant for a barber's license by endorsement to complete such a course for initial licensure. Current law requires such training as a condition for the biennial renewal of cosmetology and barber licenses.<sup>82</sup>

## **Nail and Facial Specialists, Hair Braiders, Hair Wrappers, and Body Wrappers**

### ***Present Situation***

Chapter 477, F.S., governs the licensing 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

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<sup>77</sup> 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.

<sup>78</sup> 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.

<sup>79</sup> See s. 476.114(2), F.S.

<sup>80</sup> See s. 476.144(6), F.S.

<sup>81</sup> Fla. Admin. Code R. 61G3-16.006 (2019).

<sup>82</sup> See s. 455.2228, F.S.

license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.<sup>83</sup>

Individuals are prohibited from providing manicures, pedicures, or facials in Florida without first being licensed as a cosmetologist or registered as a nail specialist, facial specialist, or full specialist.<sup>84</sup>

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under ch. 477, F.S.”<sup>85</sup> 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; and
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.”<sup>86</sup>

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology.”<sup>87</sup> “Cosmetology” is defined as “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.” This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.<sup>88</sup>

A nail specialist may complete manicures and pedicures, and a full specialist may complete manicures, pedicures, and facials.<sup>89</sup> Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.<sup>90</sup> All cosmetology and specialty salons are subject to inspection by the DBPR.<sup>91</sup>

To qualify for a specialist license, the applicant must be at least 16 years of age and obtain a certificate of completion from an approved specialty education program.<sup>92</sup>

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<sup>83</sup> See s. 477.015, F.S., and Department of Business and Professional Regulation, *Cosmetology*, available at: <http://www.myfloridalicense.com/DBPR/cosmetology/> (last visited Feb. 4, 2019).

<sup>84</sup> See ss. 477.013(6) and 477.0201, F.S.

<sup>85</sup> See s. 477.013(5), F.S.

<sup>86</sup> See s. 477.013(6), F.S.

<sup>87</sup> See s. 477.013(3), F.S.

<sup>88</sup> 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.

<sup>89</sup> See s. 477.013(6), F.S.

<sup>90</sup> 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.

<sup>91</sup> See s. 477.025(9), F.S.

<sup>92</sup> See s. 477.0201, F.S.

The specialty education program consists of:

- 240 hours of training for a nail specialty;
- 260 hours of training for a facial specialty; and
- 500 hours of training for a full specialty.<sup>93</sup>

The applicant must submit a specialist application for registration with the DBPR with a registration fee not to exceed \$50.<sup>94</sup>

The act of applying polish to fingernails and toenails falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails.<sup>95</sup> Therefore, individuals seeking to apply polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist, as the DBPR does not issue a separate license for polishing nails.

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.<sup>96</sup> In addition, persons providing makeup in a theme park or entertainment complex to actors or the general public are exempt from licensing requirements.<sup>97</sup>

“Hair braiding” means “the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemically treating and does not include the use of hair extensions or wefts.”<sup>98</sup>

“Hair wrapping” means the wrapping of manufactured materials around a strand 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.<sup>99</sup>

“Body wrapping” means “a treatment program that uses herbal wraps for the purpose 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.”<sup>100</sup>

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;<sup>101</sup> and:

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<sup>93</sup> Fla. Admin. Code R. 61G5-22 (2019).

<sup>94</sup> Section 477.026, F.S.

<sup>95</sup> See s. 477.013(6)(a) and (b), F.S.

<sup>96</sup> See ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.

<sup>97</sup> See s. 477.0135(6), F.S.

<sup>98</sup> Section 477.013(9), F.S. 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 Feb. 4, 2020).

<sup>99</sup> Section 477.013(10), F.S.

<sup>100</sup> Section 477.013(11), F.S.

<sup>101</sup> Section 477.026, F.S.

- For hair braiders, take a 2-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.
- For hair wrappers, take a 1-day board-approved 6-hour education course consisting of:
  - HIV/AIDS and other communicable diseases,
  - sanitation and sterilization, and
  - disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.
- For body wrappers, take a 2-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.<sup>102</sup>

Hair braiders, hair wrappers, and body wrappers are not required to complete continuing education as a condition for renewal of the registration.<sup>103</sup>

In Florida, cosmetology and specialty salons must be licensed.<sup>104</sup> Such salons are inspected periodically by the DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.<sup>105</sup>

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,<sup>106</sup> 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;<sup>107</sup>
- 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.<sup>108</sup>

The board is required to certify an applicant as qualified for licensure by endorsement if the applicant holds a current active license to practice cosmetology in another state. The board may not require proof of educational hours if the other state requires at least 1,200 hours of education

<sup>102</sup> See s. 477.0132, F.S. Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$350. Examples include: 1STOPCEU.com, *Home*, available at: <https://www.1stopceu.com/livezilla/knowledgebase.php?article=6332971e65219f8cdfc5d16d8b113c10> (last visited Feb. 4, 2020); and JT's Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, available at: <http://www.jtbeautysalon.com/> (last visited Feb. 4, 2020).

<sup>103</sup> Section 477.019(7)(b), F.S.

<sup>104</sup> Section 477.025(1), F.S.

<sup>105</sup> Section 477.025(9), F.S.; and Fla. Admin. Code R. Ch. 61G5-20 (2019).

<sup>106</sup> Section 477.0263(1), F.S.

<sup>107</sup> A "special event" is defined as a wedding or fashion show in Fla. Admin. Code R. 61G5-20.0015(1) (2019).

<sup>108</sup> Sections 477.0263(2) through (4), F.S.



and passage of a written examination. This provision is not applicable to applicants in the other state who received their license through an apprenticeship program.<sup>109</sup>

The board is also required to provide by rule the continuing education requirements to maintain the cosmetology license not to exceed 16 hours biennially. Any person whose practice is confined to hair braiding, hair wrapping, or body wrapping are exempt from the continuing education requirements.<sup>110</sup>

### *Effect of Proposed Changes*

**Section 28** of the bill amends s. 477.013(9), F.S., to expand the definition of “hair braiding” to include the weaving or interweaving of natural human hair or commercial hair, and the use of hair extensions or wefts. Under current law, the use of hair extensions or wefts is excluded from “hair braiding.”

**Section 29** of the bill repeals s. 477.0132, F.S., which provides that:

- Registration is required for hair braiding, hair wrapping, and body wrapping, and requires those registrants to take specified courses approved by the Board of Cosmetology.
- 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 30** of the bill 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, or applying polish to fingernails and toenails from registration requirements.

**Section 31** of the bill amends s. 477.019(6), F.S., to delete the requirement that an applicant for licensure by endorsement submit proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. It also deletes the exemption for persons licensed in another state who received their license through an apprenticeship program.

The bill requires an applicant for a cosmetology license by endorsement to complete a 2-hour course on human immunodeficiency virus and acquired immune deficiency syndrome.

The bill also amends s. 477.019(7), F.S., to decrease the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours.

**Section 32** of the bill amends s. 477.0201(1), F.S., to reduce the number of hours required for a specialist registration required under current rules.

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<sup>109</sup> Section 477.019(6), F.S.

<sup>110</sup> Section 477.019(7), F.S.

The bill requires:

- 180 hours of training for a nail specialty (the current rule requires 240 hours);
- 220 hours of training for a facial specialty (the current rule requires 260 hours); and
- 400 hours of training, or the number of hours required to maintain minimum Pell Grant requirements, for a full specialty (the current rule requires 250 hours).<sup>111</sup>

**Section 33** of the bill deletes the requirement in s. 477.026(1)(f), F.S., relating to license fees for hair braiders, hair wrappers, and body wrappers.

**Section 34** of the bill 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, hair arranging, nail polish removal, nail filing, nail buffing, and nail cleaning outside of a salon when the service is performed by a licensed person.

**Section 35** of the bill amends s. 477.0265, F.S., to delete a reference to body wrapping in a prohibition respecting the advertising of services.

**Section 36** of the bill 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.<sup>112</sup>

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
- A corporation, limited liability company, or partnership acting through licensees as agents, employees, officers, or partners.<sup>113</sup>

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.<sup>114</sup>

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<sup>111</sup> See Fla. Admin. Code R. 61G5-22 (2019).

<sup>112</sup> See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.

<sup>113</sup> Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.

<sup>114</sup> Section 481.219(2)-(3), F.S.

## **Interior Design**

A person may not practice interior design unless the person is a registered interior designer or otherwise exempt from the requirement to register. If holding a valid license by the Board of Architecture and Interior Design and choosing to relinquish that license or failing to renew that license, a person may not use the title “interior designer” or “registered interior designer,” or words to that effect.<sup>115</sup>

Section 481.203(4), F.S., defines a “certificate of registration” to mean a license issued by the DBPR to a natural person to engage in the practice of architecture or interior design.

The following persons may practice interior design without a license:<sup>116</sup>

- A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent himself or herself as, an interior designer.<sup>117</sup>
- An employee of a retail establishment providing “interior decorator services” on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.<sup>118</sup>

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 \$1,335, including the application fee. Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida’s licensure prerequisites.<sup>119</sup>

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$75, an unlicensed activity fee of \$5, and a biennial renewal fee of \$100.<sup>120</sup> 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.<sup>121</sup>

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<sup>115</sup> Sections 481.223(1)(b) and (c), F.S.

<sup>116</sup> Section 481.229(6), F.S.

<sup>117</sup> Section 481.229(6)(a), F.S., provides that “residential applications” includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. “Residential applications” does not include common areas associated with instances of multiple-unit dwelling applications.

<sup>118</sup> Section 481.229(6)(b), F.S.

<sup>119</sup> See Council for Interior Design Qualification, *Become NCIDQ Certified*, available at: <http://www.cidq.org>.

<sup>120</sup> See Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2019).

<sup>121</sup> See s. 481.219, F.S.

Florida is one of eight 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.”<sup>122</sup>

### **Use of Seals by an Interior Designer**

Section 481.221(3), F.S., authorizes the Board of Architecture and Interior Design to prescribe, by rule, one or more forms of seal to be used by licensed interior designers. Each registered interior designer must obtain a seal. All drawings, plans, specifications, or reports prepared or issued by the registered interior designer and filed for public records, and all final documents provided to the owner or the owner’s representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

### **Architects**

A person who is licensed in another state is eligible for a professional architect license by endorsement in Florida if the person:<sup>123</sup>

- Qualifies to take the licensure examination, and has passed the licensure examination or a substantially equivalent examination in another jurisdiction, and has satisfied the internship requirements set forth in s. 481.211, F.S. for architects;
- Holds a valid license to practice architecture issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; or
- Has passed the licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States.

### ***Effect of Proposed Changes***

**Sections 37 through 51** of the bill amend part I of ch. 481, F.S., to repeal licensure requirements for interior designers and interior design businesses. In lieu of a license requirement, the bill provides a voluntary certificate or registration to practice interior design, however, a certificate of registration is not required to practice interior design.

**Section 39** of the bill amends s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design to reflect that the board’s duties include receiving complaints regarding investigating and disciplining persons with a certificate of registration for the practice of interior design.

The bill authorizes the Board of Architecture and Interior Design to impose a nonrefundable fee of not more than \$75 for a certificate of registration and for the biennial renewal of the certificate of registration.

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<sup>122</sup> Commercial Interior Design Association, *State Information*, available at: <http://advocacy.iida.org/#interiordesignlaws> (last visited Feb. 4, 2020).

<sup>123</sup> Section 481.213, F.S.

**Section 41** of the bill amends s. 481.209, F.S., to revise the qualifications for a certificate of registration to practice interior design. The bill repeals the education and experience requirements in current law. Under the bill, to qualify for a certificate of registration, a person must submit written proof that he or she has successfully passed the qualification examination prescribed by the NCIDQ or its successor entity, or the California Council for Interior Design Certification or its successor entity, or has successfully passed an equivalent exam as determined by the department.

**Section 42** of the bill amends s. 481.213(3), F.S., to revise the requirements for licensure by endorsement for a professional architect license to require an applicant to complete a class approved by the Board of Architecture on the Florida Building Code.

The bill creates s. 481.213(8), F.S., to provide that a person who performs residential interior design services or interior decorator services is not required to hold a certificate of registration for interior design. The bill repeals s. 481.223(1)(b), F.S., which requires registration as a condition to practice interior design, unless the person is subject to an exemption from the registration requirement.

**Sections 43 and 47** amend ss. 481.2131(1) and 481.221, F.S., respectively, to revise the requirements for seals used by a registered interior designer. Under the bill, if interior design documents are submitted for a building permit by an individual performing interior design services who is not a licensed architect, the documents must include a seal issued by the DBPR.

Additionally, the bill amends s. 481.221, F.S., to change the authority to require that the form of the seal for architects and interior designers be prescribed by rule of the DBPR instead of by rule of the Board of Architecture and Interior Design.

**Section 44** of the bill amends s. 481.215(5), F.S., to require architects to complete 2 hours in specialized or advanced courses on any portion of the Florida Building Code, and provides that such hours count towards the continuing education requirement.

**Section 46** of the bill 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.

Regarding interior designers, the current law provision in s. 481.219(7), F.S., which provides that an interior designer who signs and seals the interior design drawings, plans, or specifications is

liable for professional services performed, is not amended by the bill to remove the statutory liability.

**Section 47** of the bill amends ss. 481.221, F.S., to revise the requirements relating to seals used by architects and interior designers.

The bill amends s. 481.221(10), F.S., to require each business organization to include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the business organization. The bill does not require that a registered interior designer include his or her license number in such advertisements for a business organization.

The bill retains the requirement in current law that an architect must include his or her license number in in any newspaper, telephone directory, or other advertising medium used by the architect. The bill removes the requirement in current law for a registered interior designer to include his or her license number in such advertisements.

**Section 49** amends s. 481.2251, F.S., to revise the requirements for disciplinary proceedings against registered interior designers. The bill replaces the term “license” with the term “register.” In place of suspension or revocation of a license, the bill authorizes the board to remove a registered interior designer from the registry for a violation of any of the prohibited acts listed in s. 481.2251, F.S. The bill repeals several grounds for disciplinary action by the board, and the grounds for denial of a registration, including:

- Failing to report to the board that a person is violating any I of ch. 481, F.S., or rule of the board, or an order of the board;
- Failing to perform a statutory or legal obligation; and
- Accepting compensation from someone other than a client without full disclosure to the client.

The bill reduces the applicable fines payable by an interior designer from \$1000 to \$500 for each violation or separate offense. The bill also reduces the fine for a violation of the Florida Building Code by an interior designer from \$5,000 to \$2,500.

**Section 50** of the bill amends s. 481.229(6), F.S., to repeal the exemption from the application of part I of ch. 481, F.S., for persons who perform interior design services or interior decorator services for residential applications.

**Section 72** of the bill amends s. 558.002, F.S., to replace the reference to a licensed interior designer with the term “registered interior designer” in the definition of the term “design professional” under 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 architecture<sup>124</sup> unless the person holds a valid license issued pursuant to part II of ch. 481, F.S.<sup>125</sup> 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, are registered landscape architects;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership are registered landscape architects; and
- The corporation or partnership has been issued a certificate of authorization by the board.<sup>126</sup>

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;<sup>127</sup>
- Pass the nationally recognized Landscape Architecture Registration Examination (LARE);<sup>128</sup> and
- Have 2 year of practical experience, not including any experience used to qualify to take the examination.<sup>129</sup>

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:<sup>130</sup>

- 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.<sup>131</sup>

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<sup>124</sup> The term “landscape architecture” includes but is not limited to the determination of building settings, 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.

<sup>125</sup> Section 481.323(1)(a), F.S.

<sup>126</sup> Section 481.319(1), F.S.

<sup>127</sup> Section 481.309(1)(b), F.S.

<sup>128</sup> Fla. Admin. Code R. 61G10-11.001 (2019).

<sup>129</sup> Section 481.310, F.S.

<sup>130</sup> Section 481.311(3), F.S.

<sup>131</sup> Fla. Admin. Code R. 61G10-11.004(2)(e) (2019).

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$200, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.<sup>132</sup> 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.<sup>133</sup>

### *Effect of Proposed Changes*

**Sections 54 through 59** of the bill 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 1 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 on 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 are registered landscape architects.

Under the bill, landscape architects who qualify as a business organization must inform the DBPR within one 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 53** of the bill amends s. 481.310, F.S., to provide that an applicant who holds a master's degree in landscape architecture and a bachelor's degree in a related field does not have to demonstrate 1 year of practical experience in landscape architecture to qualify for licensure.

**Section 54** of the bill amends s. 481.311(3), F.S., to provide that a person is eligible for a license by endorsement if they hold a valid license to practice landscape architecture in another state or territory of the United States.

The bill removes the requirements for licensure by endorsement requiring the applicant to have:

- Been licensed in the other jurisdiction for at least 10 years; and
- Passed a licensing examination which is substantially equivalent to the examination required in Florida.

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<sup>132</sup> See Fla. Admin. Code R. 61G10-12.002 (2019).

<sup>133</sup> See s. 481.319(4), F.S.



**Section 55** authorizes landscape architects to receive hour-for-hour credit for certain approved continuing education courses.

**Section 56** amends s. 481.317(2), F.S., to delete the provision allowing the issuance of a temporary certificate of authorization.

**Section 57** of the bill deletes s. 481.319(5), F.S., which provides that disciplinary action against a corporation or partnership is 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.<sup>134</sup>

## **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:<sup>135</sup>

- 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 1 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 4 years from the date of the most recently passed portion of the examination.<sup>136</sup>

A person who is licensed in another state is eligible for a license 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.<sup>137</sup>

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

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<sup>134</sup> See s. 481.319(6), F.S., and s. 558.0035, F.S.

<sup>135</sup> Sections 489.111(2)(c)1. through 3., F.S.

<sup>136</sup> Fla. Admin. Code R. 61G4-16.005 (2019).

<sup>137</sup> Section 489.115(3), F.S.

exception.” The “handyman exception” was enacted in 1979, and the contractual amount to fit within the exception has not been updated since.<sup>138</sup>

### ***Effect of Proposed Changes***

**Section 60** amends s. 489.103(9), F.S., to increase the maximum contract<sup>139</sup> price for the “handyman exception” from \$1,000 to \$2,500.

**Sections 61** amends s. 489.111(2)(c), F.S., to eliminate the need for applicants to retake the examination to upgrade an existing residential, building, air conditioning, or swimming pool license if they have previously passed the required examination.

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

**Section 62** creates s. 489.115(3)(d), 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;
- Complied with workers’ compensation requirements, provided proof of the financial health of their business organization, and submitted fingerprints for the required criminal background check; and
- Completed an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of contracting in Florida.

The bill authorizes the Construction Industry Licensing Board to consider whether an applicant for licensure by endorsement has had licenses to practice revoked, suspended, or was otherwise acted against by the licensing authority of another state, territory, or country. Under the bill, an application for a license by endorsement must be made either when the applicant’s license in another state or territory is active or within 2 years after such license was last active.

## **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

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<sup>138</sup> Section 489.103(9), F.S.

<sup>139</sup> This includes labor and materials.

- Meet eligibility requirements according to a combination of education and experience as approved by the ECLB.<sup>140</sup>

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education 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.<sup>141</sup>

A person who is licensed in another state is eligible for a license 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.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida's examination.<sup>142</sup>

A "burglar alarm system agent" means a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor; and
- Whose specific duties include any of the following activities of alarm system contracting: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.<sup>143</sup>

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 2 hours of training in the prevention of false alarms.<sup>144</sup>

### ***Effect of Proposed Changes***

**Section 63** 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;
- Complied with workers' compensation requirements, provided proof of the financial health of their business organization, and is of good moral character; and

<sup>140</sup> Sections 489.511(1)(a) and (b), F.S.

<sup>141</sup> Section 489.517(4), F.S.

<sup>142</sup> Department of Business and Professional Regulation, *Certified Electrical Contractor – Endorsement*, available at: [https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT\\_DEFN\\_ID=3688](https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT_DEFN_ID=3688) (last visited Feb. 4, 2020).

<sup>143</sup> Section 489.505(25), F.S.

<sup>144</sup> Section 489.518(1)(b), F.S.

- Completed an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of electrical and alarm system contracting in Florida.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years after such license was last active.

**Section 64** amends s. 489.517, F.S., to reduce the number of hours of continuing education that specialty and alarm system contractors must complete during each biennial license period from 14 hours 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.

The bill provides that for licensed specialty contractors or alarm system contractors, of the required 7 classroom hours of continuing education, at least 1 hour must be on technical subjects, 1 hour must be on workers' compensation, 1 hour must be on workplace safety, 1 hour must be on business practices, and 2 hours must be on false alarm prevention.

The bill adds a requirement that each certificateholder or registrant licensed as an electrical contractor must provide proof that they have completed 11 classroom hours of at least 50 minutes each of continuing education every two years since the issuance or renewal of the certificate of registration.

The bill provides that for licensed electrical contractors, of the required 11 classroom hours of continuing education, at least 7 hours must be on technical subjects, 1 hour must be on workers' compensation, 1 hour must be on workplace safety, and 1 hour must be on business practices. Additionally, electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm prevention.

**Section 65** 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.

## **Public Food Service Establishments**

### ***Present Situation***

Section 509.013(5)(a), F.S., defines the term "public food service establishment" to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

The Division of Hotels and Restaurants within the DBPR is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the

inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

There are several exclusions from the definition of public food service establishment, including:<sup>145</sup>

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;<sup>146</sup>
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items;
- Any vending machine that dispenses any food or beverage other than potentially hazardous foods;<sup>147</sup> and
- Any research and development test kitchen limited to the use of employees and not open to the general public.

### *Effect of Proposed Changes*

**Section 66** of the bill creates s. 509.102, F.S., to preempt the regulation of mobile food dispensing vehicles (food trucks) to the state. The bill prohibits local government from requiring a license, registration, or permit to operate a food truck. The bill clarifies that local governments are only limited by s. 509.102(2), F.S.

### **State Boxing Commission**

#### *Present Situation*

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,<sup>148</sup> and mixed martial arts<sup>149</sup> by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.<sup>150</sup>

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<sup>145</sup> Section 509.013(5)(b), F.S.

<sup>146</sup> Other similar food service establishments are regulated under s. 381.0072, F.S.

<sup>147</sup> Vending machines located in a facility regulated under s. 381.0072, F.S. that dispense potentially hazardous foods are also excluded from the definition.

<sup>148</sup> 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.

<sup>149</sup> 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.

<sup>150</sup> *See* s. 548.003(1), F.S.

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida<sup>151</sup> that involves a professional.<sup>152</sup> Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.<sup>153</sup> 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.”<sup>154</sup>

However, in regards 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.<sup>155</sup> Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.<sup>156</sup> During Fiscal Year 2018-2019, of the 137 amateur events in Florida, the Division of Regulation in the DBPR conducted 35 checks for compliance with health and safety standards and proper supervision of the events.<sup>157</sup>

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.<sup>158</sup>

In Fiscal Year 2018-2019, the commission issued licenses to eight announcers and 11 timekeepers.<sup>159</sup>

### *Effect of Proposed Changes*

**Sections 67 and 68** of the bill 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.

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<sup>151</sup> See s. 548.006(1), F.S.

<sup>152</sup> 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.

<sup>153</sup> See s. 548.006(4), F.S.

<sup>154</sup> See s. 548.007(6), F.S., and see *supra* note 149 for the definition of “mixed martial arts.”

<sup>155</sup> See s. 548.006(3), F.S.

<sup>156</sup> Section 548.002(2), F.S.

<sup>157</sup> See Department of Business and Professional Regulation, *Florida State Boxing Commission Annual Report, Fiscal Year 2017-2018*, available at: [http://www.myfloridalicense.com/dbpr/os/documents/Boxing18\\_19.pdf](http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf) at p. 6. (last visited on Feb. 4, 2020).

<sup>158</sup> 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.

<sup>159</sup> *Supra*, note 156.

## **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.<sup>160</sup>

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:<sup>161</sup>

- 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;
- 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 codes 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);

<sup>160</sup> Chapter 2000-141, Laws of Fla.

<sup>161</sup> Section 553.74, F.S.

- 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.<sup>162</sup>

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.<sup>163</sup> The 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.<sup>164</sup>

### *Effect of Proposed Changes*

**Section 70** of the bill 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 one 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 for Group E or Group I occupancies;<sup>165</sup>
- Allows a certified mechanical engineer or mechanical contractor as options in place of the member who is an air-conditioning contractor or mechanical contractor member to be a mechanical engineer.
- Allows the one electrical contractor member to be an electrical contractor or an electrical engineer and includes the Florida Engineering Society in the list of groups encouraged to recommend candidates for appointment;
- Allows the one general contractor member to be a certified general contractor or a certified building contractor;
- Allows the one 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; and
- Requires the one member representing a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state to be compliant with, or be certified compliant with, the requirements of the Americans with Disability Act of 1990, as amended.

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

<sup>162</sup> The chair is appointed by the Governor.

<sup>163</sup> Department of Business and Professional Regulation, *Florida Building Code Online*, available at: [https://www.floridabuilding.org/c/c\\_commission.aspx](https://www.floridabuilding.org/c/c_commission.aspx) (last visited on Feb. 4, 2020).

<sup>164</sup> *Id.*

<sup>165</sup> Group E occupancy relates to buildings and structures or portions thereof occupied by more than five children older than two and one-half years of age who receive educational, supervision, or personal care services for fewer than 24 hours per day, such as daycare facilities. Group I occupancy relates to the use of a building or structure, or a portion thereof, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance, e.g., hospitals, nursing homes, and foster care facilities, or in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted, e.g., correctional institutions. See Chapter 3, 2017 Florida Building Code - Building, Sixth Edition, available at: <https://up.codes/viewer/florida/fl-building-code-2017/chapter/3/use-and-occupancy-classification#308> (last visited Feb. 4, 2020).



- One member from fire protection engineering or technology;
- One member who represents the Department of Financial Services;
- One member who is a county codes enforcement official;
- One member who is a registered mechanical or electrical engineer;
- One member who is a representative of a municipality or charter county;
- One member who is a representative of public education;
- 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.

The amendments to the composition of the Florida Building Commission in s. 553.5141, F.S., take effect January 1, 2021.

### **Other Conforming Provisions**

**Section 74** 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, 2020, unless otherwise provided in the bill.

## **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 amends s. 481.207, F.S., to authorize the Board of Architecture and Interior Design to impose a nonrefundable fee of not more than \$75 for a certificate of registration for interior designers and for the biennial renewal of the certificate of registration. The bill addresses additional subjects related to regulation of other professions and occupations within the DBPR.

To the extent the bill imposes a fee 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.”<sup>166</sup>

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

A fiscal analysis for CS/CS/SB 474 was not available for the preparation of this bill analysis. According to the DBPR, the bill would result in a reduction of license fees, license renewal fees, and unlicensed activity fees paid by the private sector to the Division of Professions of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.<sup>167</sup>

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately \$830 annually.<sup>168</sup>

The Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.<sup>169</sup>

The DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector to the Florida State Boxing Commission of approximately \$1,450 annually.<sup>170</sup>

B. Private Sector Impact:

The bill has an indeterminate positive fiscal impact for the private sector. The bill provides for the portability of Florida licensure by requiring reciprocity with states with similar requirements. The impact will vary, depending on how many licensees are provided licensure through reciprocity.

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<sup>166</sup> FLA. CONST. art. VII, s. 19(d)(1)

<sup>167</sup> See Department of Business and Professional Regulation, *SB 474, 2020 Agency Legislative Bill Analysis*, p. 13 (Nov. 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

The bill has a positive fiscal impact on fees paid by the private sector. Over the next three fiscal years (FY 2020-21 to FY 2022-23), the estimated reduction totals \$3,143,723 as follows:<sup>171</sup>

**Professions:** A fiscal analysis for CS/CS/SB 474 was not available for the preparation of this bill analysis. For SB 474, a reduction of license fees, license renewal fees, and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately \$830 annually.<sup>172</sup>

**Condominiums:** (Yacht and Ship Brokers) A reduction of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.

**Boxing Commission:** A reduction of approximately \$1,450 annually.

Specifically, the bill:

- Eliminates license or registration costs for hair braiders, hair wrappers, body wrappers, labor organizations, and boxing 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.
- Eliminates business license costs for architects and interior designers, and landscape architects.
- Eliminates the requirement that yacht and ship brokers must have a separate license for each branch office.
- Eliminates mandatory licensing costs for interior designers who provide interior design services for commercial applications.
- Reduces pre-licensure and continuing education costs for architects, barbers, cosmetologists, nail specialists, facial specialists, full specialists, 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.

#### C. Government Sector Impact:

A fiscal analysis for CS/CS/SB 474 was not available for the preparation of this bill analysis. According to the DBPR, the elimination of professional licensing requirements contained in SB 474 is anticipated to reduce state government revenues by \$3,143,723 over the next three fiscal years (FY 2020-21 to FY 2022-23).<sup>173</sup> Specifically:<sup>174</sup>

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<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at page 16.

<sup>174</sup> *Id.*

- Professions: a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.
- Regulation: the business agent and labor organization license fee reduction is anticipated to be \$830 annually.
- Boxing Commission: a revenue reduction of approximately \$1,450 annually.
- Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers): Revenue reduction of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.<sup>175</sup>

As a result of the revenue reduction, there will be a reduction in the 8 percent service charge to General Revenue of approximately \$96,220 in Fiscal Year 2020-21, \$45,952 in Fiscal Year 2021-22, and \$109,326 in Fiscal Year 2022-23.

The bill will result in a reduction of expenditures related to the reduced workload because of the deregulation of entities currently regulated by the DBPR in the amount of \$130,840 in FY 2020-21, \$137,140 in FY 2021-22 and \$137,340 in FY 2022-23.<sup>176</sup>

The Bureau of Education and Testing (Bureau) in the DBPR also indicates that the bill will have a minimal impact on its workload, although some examination content may require updating; such updating is a part of the Bureau's standard procedure to address statutory changes.<sup>177</sup>

## VI. Technical Deficiencies:

CS/CS/SB 474 amends ss. 456.072 and 456.074, F.S., and repeals s. 456.0721, F.S., to remove the authority of the DOH to take disciplinary action against a health care practitioner who is in default on a student loan guaranteed by the state or federal government. However, the bill may not remove all the DOH requirements relating to student loan default, specifically relating to initial award or renewal of a license. The DOH, or a licensing board within the jurisdiction of the DOH, must refuse to issue or renew a license to an individual that is currently listed on the USDHHS Office of Inspector General's List of Excluded Individuals and Entities (LEIE).<sup>178</sup> Federal law<sup>179</sup> provides that a default on a health education loan or scholarship obligation is permissive grounds for being placed on the LEIE and that such exclusion lasts until the default or obligation is resolved. If a candidate or applicant is placed on the LEIE for a default on such a

<sup>175</sup> See Department of Business and Professional Regulation, *SB 474, 2020 Agency Legislative Bill Analysis*, p. 14 (Nov. 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> Section 456.0635(2)(e) and (3)(e), F.S. The LEIE provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other Federal health care programs. USDHHS, Office of Inspector General, *Exclusions FAQ*, <https://oig.hhs.gov/faqs/exclusions-faq.asp>, (last visited Feb. 3, 2019). Individuals must be excluded (placed on the LEIE) for a conviction of specified crimes, including patient abuse, fraud, or actions related to a controlled substance. Individuals may be placed on the LEIE for acts including convictions relating to audits, specified misdemeanors, claims of unnecessary services, kickbacks, or default on health education loans or scholarship obligations. 42 U.S.C. s. 1320a-7.

<sup>179</sup> Section 1128(b)(14) of the Social Security Act and 42 U.S.C. 1320a-7(b)(14).

loan, the DOH must deny that person's application for an initial license or renewal of an existing license.<sup>180</sup>

The bill 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. However, the bill retains the current name of the Board of Architecture and Interior Design throughout part I of ch. 481, F.S.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes:

20.165, 322.57, 326.004, 447.02, 447.09, 447.305, 455.213, 456.072, 456.074, 468.385, 468.603, 468.613, 468.8314, 471.015, 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, 481.223, 481.2251, 481.229, 481.231, 481.303, 481.310, 481.311, 481.317, 481.319, 481.321, 481.329, 489.103, 489.111, 489.115, 489.511, 489.517, 489.518, 548.003, 548.017, 553.5141, 553.74, 558.002, 559.25, and 287.055.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 456.0721, 477.0132, and 481.2251.

This bill creates section 509.102 of the Florida Statutes.

## **IX. Additional Information:**

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

#### **CS by Innovation, Industry, and Technology on January 21, 2020:**

The committee substitute:

- Amends s. 322.57, F.S., to waive the requirement to pass the commercial driver license skills test for military service members and veterans with specified training and experience.
- Does not amend ss. 469.006 and 469.009, F.S., to revise provisions related to asbestos abatement business licenses.
- Revises the amendment to s. 477.0135, F.S., to remove persons whose occupation or practice is confined solely to makeup application from the list of persons who are exempt from license and specialty registration requirements.
- Revises the minimum training hours in s. 477.0201(1), F.S., for cosmetology specialists.

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<sup>180</sup> Florida Department of Health, *2019 Agency Analysis of SB 356* (Oct. 31, 2019).

- Does not amend s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design.
- Amends ch. 481, F.S., to provide for a voluntary certificate or registration to practice interior design in place of the current license requirement and to impose a nonrefundable fee not to exceed \$75 for a certificate of registration for interior designers and its renewal.
- Revises the qualifications for a registered interior designer, the board's authority to prescribe the form of seals, requirements related to the use of seals by registered interior designers, and applicable discipline, including fines, and disciplinary grounds for registered interior designers.
- Amends s. 489.517, F.S., to revise the minimum continuing education hours for electrical contractors.
- Creates s. 509.102, F.S., to preempt the regulation of mobile food dispensing vehicles to the state, prohibit local governments from requiring a license, registration, or permit, and prohibit local governments from prohibiting the operation of food trucks.

**CS by Commerce and Tourism Committee on February 5, 2020:**

The committee substitute:

- Adds “makeup application” to the list of activities that may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license;
- Authorizes landscape architects to receive hour-for-hour credit for certain approved continuing education courses;
- Provides that the board may establish fees for architects and registered interior designers in s. 481.207, F.S.;
- Deletes s. 481.207(2), F.S., and moves the relevant fees from that provision into s. 481.207(1), F.S.
- Establishes that each certificate holder or registrant licensed as a specialty contractor or alarm system contractor must prove they have completed at least 7 classroom hours of continuing education courses;
- Adds a requirement that each certificateholder or registrant licensed as an electrical contractor must provide proof that they have completed 11 classroom hours of at least 50 minutes each of continuing education every 2 years since the issuance or renewal of the certificate of registration;
- Gives the Electrical Contractors’ Licensing Board the authority to establish criteria for continuing education requirements;
- Provides that for licensed specialty contractors or alarm system contractors, of the required 7 classroom hours of continuing education, at least 1 hour must be on technical subjects, 1 hour must be on workers’ compensation, 1 hour must be on workplace safety, 1 hour must be on business practices, and 2 hours must be on false alarm prevention;
- Provides that for licensed electrical contractors, of the required 11 classroom hours of continuing education, at least 7 hours must be on technical subjects, 1 hour must be on workers’ compensation, 1 hour must be on workplace safety, and 1 hour must be on business practices;

- Provides that electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm prevention;
- Authorizes employees, agents, or contractors of qualifying public or private animal shelters, a humane organizations, or animal control agencies to implant cats and dogs with specified microchips;
- Requires that architects complete 2 hours in specialized or advanced courses on any portion of the Florida Building Code, and provides that such hours count towards the continuing education requirement;
- Clarifies that a municipality, county, or other local government entity's authority to regulate mobile food dispensing vehicles is only limited by s. 509.102(2).
- Adds a requirement under s. 489.115, F.S., that within 30 days after receiving a license, the licensee is required to complete an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of contracting in Florida; and
- Adds a requirement under s. 489.511, F.S., that within 30 days after receiving a license, the licensee is required to complete an approved 4 hour continuing education course on the Florida Building Code, as well as a 1 hour course on the laws and rules of electrical and alarm system contracting in Florida.

B. Amendments:

None.



502686

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment**

Delete line 704  
and insert:  
(5) Hair shampooing, hair cutting, hair arranging, makeup application, nail





865724

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Substitute for Amendment (502686) (with title amendment)**

Delete lines 207 - 1318  
and insert:

Section 2. Present subsection (4) of section 322.57, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—



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11       (4) (a) As used in this subsection, the term "servicemember"  
12 means a member of any branch of the United States military or  
13 military reserves, the United States Coast Guard or its  
14 reserves, the Florida National Guard, or the Florida Air  
15 National Guard.

16       (b) The department shall waive the requirement to pass the  
17 Commercial Driver License Skills Tests for servicemembers and  
18 veterans if:

19       1. The applicant has been honorably discharged from  
20 military service within 1 year of the application, if the  
21 applicant is a veteran;

22       2. The applicant is trained as an MOS 88M Army Motor  
23 Transport Operator or similar military job specialty;

24       3. The applicant has received training to operate large  
25 trucks in compliance with the Federal Motor Carrier Safety  
26 Administration; and

27       4. The applicant has at least 2 years of experience in the  
28 military driving vehicles that would require a commercial driver  
29 license to operate.

30       (c) An applicant must complete every other requirement for  
31 a commercial driver license within 1 year of receiving a waiver  
32 under paragraph (b) or the waiver is invalid.

33       (d) The department shall adopt rules to administer this  
34 subsection.

35       Section 3. Subsection (13) of section 326.004, Florida  
36 Statutes, is amended to read:

37       326.004 Licensing.—

38       (13) Each broker must maintain a principal place of  
39 business in this state and may establish branch offices in the



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state. ~~A separate license must be maintained for each branch office. The division shall establish by rule a fee not to exceed \$100 for each branch office license.~~

Section 4. Subsection (3) of section 447.02, Florida Statutes, is amended to read:

447.02 Definitions.—The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

~~(3) The term "department" means the Department of Business and Professional Regulation.~~

Section 5. Section 447.04, Florida Statutes, is repealed.

Section 6. Section 447.041, Florida Statutes, is repealed.

Section 7. Section 447.045, Florida Statutes, is repealed.

Section 8. Section 447.06, Florida Statutes, is repealed.

Section 9. Subsections (6) and (8) of section 447.09, Florida Statutes, are amended to read:

447.09 Right of franchise preserved; penalties.—It shall be unlawful for any person:

~~(6) To act as a business agent without having obtained and possessing a valid and subsisting license or permit.~~

~~(8) To make any false statement in an application for a license.~~

Section 10. Section 447.12, Florida Statutes, is repealed.

Section 11. Section 447.16, Florida Statutes, is repealed.

Section 12. Subsection (4) of section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

~~(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the~~



865724

~~commission to the Department of Business and Professional  
Regulation.~~

Section 13. Subsection (14) is added to section 455.213,  
Florida Statutes, to read:

455.213 General licensing provisions.—

(14) The department or a board must enter into a reciprocal  
licensing agreement with other states if the practice act within  
the purview of this chapter permits such agreement. If a  
reciprocal licensing agreement exists or if the department or  
board has determined another state's licensing requirements or  
examinations to be substantially equivalent or more stringent to  
those under the practice act, the department or board must post  
on its website which jurisdictions have such reciprocal  
licensing agreements or substantially similar licenses.

Section 14. Paragraph (k) of subsection (1) of section  
456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which  
the disciplinary actions specified in subsection (2) may be  
taken:

(k) Failing to perform any statutory or legal obligation  
placed upon a licensee. For purposes of this section, failing to  
repay a student loan issued or guaranteed by the state or the  
Federal Government in accordance with the terms of the loan is  
~~not or failing to comply with service scholarship obligations~~  
~~shall be~~ considered a failure to perform a statutory or legal  
obligation, ~~and the minimum disciplinary action imposed shall be~~  
~~a suspension of the license until new payment terms are agreed~~  
~~upon or the scholarship obligation is resumed, followed by~~



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~~probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount.~~ Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

Section 15. Section 456.0721, Florida Statutes, is repealed.

Section 16. Subsection (4) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

~~(4) Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.~~

Section 17. Paragraph (b) of subsection (7) of section 468.385, Florida Statutes, is amended to read:

468.385 Licenses required; qualifications; examination.—

(7)

(b) A No business may not ~~shall~~ auction or offer to auction any property in this state unless it is owned by an auctioneer



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127 who is licensed ~~as an auction business~~ by the department board  
128 or is exempt from licensure under this act. Each application for  
129 licensure must ~~shall~~ include the names of the owner and the  
130 business, the business mailing address and location, and any  
131 other information which the board may require. The owner of an  
132 auction business shall report to the board within 30 days of any  
133 change in this required information.

134 Section 18. Paragraph (f) of subsection (5) of section  
135 468.603, Florida Statutes, is amended to read:

136 468.603 Definitions.—As used in this part:

137 (5) "Categories of building code inspectors" include the  
138 following:

139 (f) "Residential ~~One and two family dwelling~~ inspector"  
140 means a person who is qualified to inspect and determine that  
141 one-family, two-family, or three-family residences not exceeding  
142 two habitable stories above no more than one uninhabitable story  
143 and accessory use structures in connection therewith ~~one and two~~  
144 ~~family dwellings and accessory structures~~ are constructed in  
145 accordance with the provisions of the governing building,  
146 plumbing, mechanical, accessibility, and electrical codes.

147 Section 19. Section 468.613, Florida Statutes, is amended  
148 to read:

149 468.613 Certification by endorsement.—The board shall  
150 examine other certification or training programs, as applicable,  
151 upon submission to the board for its consideration of an  
152 application for certification by endorsement. The board shall  
153 waive its examination, qualification, education, or training  
154 requirements, to the extent that such examination,  
155 qualification, education, or training requirements of the



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applicant are determined by the board to be comparable with those established by the board. The board shall waive its examination, qualification, education, or training requirements if an applicant for certification by endorsement is at least 18 years of age; is of good moral character; has held a valid building administrator, inspector, plans examiner, or the equivalent, certification issued by another state or territory of the United States for at least 10 years before the date of application; and has successfully passed an applicable examination administered by the International Code Council. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 20. Subsection (3) of section 468.8314, Florida Statutes, is amended to read:

468.8314 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character as determined in s. 468.8313, who maintains an insurance policy as required by s. 468.8322, and who:~~+~~

(a) 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 those required by this part; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by this part; or

(b) Has held a valid license to practice home inspection services issued by another state or territory of the United



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States for at least 10 years before the date of application.  
Such application must be made either when the license in another  
state or territory is active or within 2 years after such  
license was last active.

Section 21. Subsection (5) of section 471.015, Florida  
Statutes, is amended to read:

471.015 Licensure.—

(5) (a) The board shall deem that an applicant who seeks  
licensure by endorsement has passed an examination substantially  
equivalent to the fundamentals examination when such applicant  
has held a valid professional engineer's license in another  
state for 10 ~~15~~ years ~~and has had 20 years of continuous~~  
~~professional-level engineering experience.~~

(b) The board shall deem that an applicant who seeks  
licensure by endorsement 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 15 ~~25~~ years  
~~and has had 30 years of continuous professional-level~~  
~~engineering experience.~~

Section 22. Subsection (7) of section 473.308, Florida  
Statutes, is amended to read:

473.308 Licensure.—

(7) The board shall certify as qualified for a license by  
endorsement an applicant who:

(a) ~~1.~~ Is not licensed and has not been licensed in another  
state or territory and who has met the requirements of this  
section for education, work experience, and good moral character  
and has passed a national, regional, state, or territorial





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licensing examination that is substantially equivalent to the examination required by s. 473.306; or ~~and~~

~~2. Has completed such continuing education courses as the board deems appropriate, within the limits for each applicable 2-year period as set forth in s. 473.312, but at least such courses as are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement; or~~

(b)1.~~a.~~ 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 were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

~~2.b.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of sub-subparagraph a.; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

~~3.c.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character; ~~and~~



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~~2. Has completed continuing education courses that are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement.~~

Section 23. Subsection (6) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(6) "Limited-service veterinary medical practice" means offering or providing veterinary services at any location that has a primary purpose other than that of providing veterinary medical service at a permanent or mobile establishment permitted by the board; provides veterinary medical services for privately owned animals that do not reside at that location; operates for a limited time; and provides limited types of veterinary medical services, including vaccinations or immunizations against disease, preventative procedures for parasitic control, and microchipping.

Section 24. Paragraph (b) of subsection (2) of section 474.207, Florida Statutes, is amended to read:

474.207 Licensure by examination.—

(2) The department shall license each applicant who the board certifies has:

(b)1. Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education; or

2. Graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from



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the Education Commission for Foreign Veterinary Graduates or the  
Program for the Assessment of Veterinary Education Equivalence.

The department shall not issue a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 25. Subsection (1) of section 474.217, Florida Statutes, is amended to read:

474.217 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board, demonstrates to the board that she or he:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in this state; and

(b)1. ~~Either~~ Holds, and has held for the 3 years immediately preceding the application for licensure, a valid, active license to practice veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States, provided that the applicant has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the examination required by the board ~~requirements for licensure in the issuing state, district, or territory are equivalent to or more stringent than the requirements of this chapter; or~~



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2. Meets the qualifications of s. 474.207(2)(b) and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the department and has passed the board's clinical competency examination or another clinical competency examination specified by rule of the board.

Section 26. Subsection (2) of section 476.114, Florida Statutes, is amended to read:

476.114 Examination; prerequisites.—

(2) An applicant shall be eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c) 1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 900 ~~1,200~~ hours of training in sanitation, safety, and laws and rules, as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

a. A school of barbering licensed pursuant to chapter 1005;

b. A barbering program within the public school system; or

c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600



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330 ~~1,000~~ actual school hours. If the person passes the examination,  
331 she or he shall have satisfied this requirement; but if the  
332 person fails the examination, she or he shall not be qualified  
333 to take the examination again until the completion of the full  
334 requirements provided by this section.

335 Section 27. Subsection (5) of section 476.144, Florida  
336 Statutes, is amended to read:

337 476.144 Licensure.—

338 (5) The board shall certify as qualified for licensure by  
339 endorsement as a barber in this state an applicant who holds a  
340 current active license to practice barbering in another state.

341 The board shall adopt rules specifying procedures for the  
342 licensure by endorsement of practitioners desiring to be  
343 licensed in this state who hold a current active license in  
344 another ~~state or~~ country and who have met qualifications  
345 substantially similar to, equivalent to, or greater than the  
346 qualifications required of applicants from this state.

347 Section 28. Subsection (9) of section 477.013, Florida  
348 Statutes, is amended to read:

349 477.013 Definitions.—As used in this chapter:

350 (9) "Hair braiding" means the weaving or interweaving of  
351 natural human hair or commercial hair, including the use of hair  
352 extensions or wefts, for compensation without cutting, coloring,  
353 permanent waving, relaxing, removing, or chemical treatment ~~and~~  
354 ~~does not include the use of hair extensions or wefts.~~

355 Section 29. Section 477.0132, Florida Statutes, is  
356 repealed.

357 Section 30. Subsections (7) through (10) are added to  
358 section 477.0135, Florida Statutes, to read:



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477.0135 Exemptions.—

(7) A license or registration is not required for a person whose occupation or practice is confined solely to hair braiding as defined in s. 477.013(9).

(8) A license or registration is not required for a person whose occupation or practice is confined solely to hair wrapping as defined in s. 477.013(10).

(9) A license or registration is not required for a person whose occupation or practice is confined solely to body wrapping as defined in s. 477.013(12).

(10) A license or registration is not required for a person whose occupation or practice is confined solely to applying polish to fingernails and toenails.

Section 31. Subsections (6) and (7) of section 477.019, Florida Statutes, are amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(6) The board shall certify as qualified for licensure by endorsement as a cosmetologist in this state an applicant who holds a current active license to practice cosmetology in another state and who has completed a 2-hour course approved by the board on human immunodeficiency virus and acquired immune deficiency syndrome. ~~The board may not require proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. This subsection does not apply to applicants who received their license in another state through an apprenticeship program.~~



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(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 10 ~~16~~ hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

~~(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.~~

~~(c)~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 32. Subsection (1) of section 477.0201, Florida Statutes, is amended to read:

477.0201 Specialty registration; qualifications;



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registration renewal; endorsement.—

(1) Any person is qualified for registration as a specialist in any ~~one or more of the~~ specialty practice ~~practices~~ within the practice of cosmetology under this chapter who:

(a) Is at least 16 years of age or has received a high school diploma.

(b) Has received a certificate of completion for: ~~in a~~

1. One hundred and eighty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice specialties as defined in s. 477.013(6) (a) and (b); ~~specialty pursuant to s. 477.013(6)~~

2. Two hundred and twenty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialty as defined in s. 477.013(6) (c); or

3. Four hundred hours of training or the number of hours of training required to maintain minimum Pell Grant requirements, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialties as defined in s. 477.013(6) (a)-(c).

(c) The certificate of completion specified in paragraph (b) must be from one of the following:

1. A school licensed pursuant to s. 477.023.

2. A school licensed pursuant to chapter 1005 or the equivalent licensing authority of another state.

3. A specialty program within the public school system.

4. A specialty division within the Cosmetology Division of the Florida School for the Deaf and the Blind, provided the





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training programs comply with minimum curriculum requirements established by the board.

Section 33. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

~~(f) For hair braiders, hair wrappers, and body wrappers, fees for registration shall not exceed \$25.~~

Section 34. Subsection (4) of section 477.0263, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

477.0263 Cosmetology services to be performed in licensed salon; exceptions.—

(4) Pursuant to rules adopted by the board, any cosmetology or specialty service may be performed in a location other than a licensed salon when the service is performed in connection with a special event and is performed by a person ~~who is employed by a licensed salon and~~ who holds the proper license or specialty registration. ~~An appointment for the performance of any such service in a location other than a licensed salon must be made through a licensed salon.~~

(5) Hair shampooing, hair cutting, hair arranging, makeup application, nail polish removal, nail filing, nail buffing, and nail cleansing may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license.

Section 35. Paragraph (f) of subsection (1) of section 477.0265, Florida Statutes, is amended to read:



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477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(f) Advertise or imply that skin care services ~~or body wrapping~~, as performed under this chapter, have any relationship to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 36. Paragraph (a) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist or specialist, ~~hair wrapper, hair braider, or body wrapper~~ unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 37. Section 481.201, Florida Statutes, is amended to read:

481.201 Purpose.—The primary legislative purpose for enacting this part is to ensure that every architect practicing in this state meets minimum requirements for safe practice. It is the legislative intent that architects who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. ~~The Legislature further finds that it is in the interest of the public to limit the practice of interior design to interior designers or architects who have the design education and training required by this part or to persons who are exempted from the provisions of this part.~~

Section 38. Section 481.203, Florida Statutes, is amended to read:



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481.203 Definitions.—As used in this part, the term:  
(3)~~(1)~~ “Board” means the Board of Architecture and Interior  
Design.

(7)~~(2)~~ “Department” means the Department of Business and  
Professional Regulation.

(1)~~(3)~~ “Architect” or “registered architect” means a  
natural person who is licensed under this part to engage in the  
practice of architecture.

(5)~~(4)~~ “Certificate of registration” means a license or  
registration issued by the department to a natural person to  
engage in the practice of architecture or interior design.

(4)~~(5)~~ “Business organization” means a partnership, a  
limited liability company, a corporation, or an individual  
operating under a fictitious name ~~“Certificate of authorization”~~  
~~means a certificate issued by the department to a corporation or~~  
~~partnership to practice architecture or interior design.~~

(2)~~(6)~~ “Architecture” means the rendering or offering to  
render services in connection with the design and construction  
of a structure or group of structures which have as their  
principal purpose human habitation or use, and the utilization  
of space within and surrounding such structures. These services  
include planning, providing preliminary study designs, drawings  
and specifications, job-site inspection, and administration of  
construction contracts.

(16)~~(7)~~ “Townhouse” is a single-family dwelling unit not  
exceeding three stories in height which is constructed in a  
series or group of attached units with property lines separating  
such units. Each townhouse shall be considered a separate  
building and shall be separated from adjoining townhouses by the



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use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

(10)~~(8)~~ "Interior design" means designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building



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systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

(11)~~(9)~~ "Registered interior designer" ~~or "interior designer"~~ means a natural person who holds a valid certificate of registration to practice interior design ~~is licensed under this part.~~

(12)~~(10)~~ "Nonstructural element" means an element which does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.

(13)~~(11)~~ "Reflected ceiling plan" means a ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

(15)~~(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

(6)~~(13)~~ "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.

(8)~~(14)~~ "Diversified interior design experience" means



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experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection (10)~~(8)~~.

(9)~~(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

(14)~~(16)~~ "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

Section 39. Paragraph (a) of subsection (3) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3) (a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed or registered under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or restriction of a license or certificate of registration pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture or registered ~~and~~ interior design; and to investigate and deter the unlicensed



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practice of architecture ~~and interior design~~ as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

Section 40. Section 481.207, Florida Statutes, is amended to read:

481.207 Fees.—The board, by rule, may establish ~~separate~~ fees for architects and registered interior designers, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable. The fee for initial application and examination for architects ~~and interior designers~~ may not exceed \$775 plus the actual per applicant cost to the department for purchase of the examination from the National Council of Architectural Registration Boards ~~or the National Council of Interior Design Qualifications, respectively,~~ or similar national organizations. The initial nonrefundable fee for registered interior designers may not exceed \$75. The biennial renewal fee for architects may not exceed \$200. The biennial renewal fee for registered interior designers may not exceed \$75 ~~\$500~~. The delinquency fee may not exceed the biennial renewal fee established by the board for an active license. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are



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allocated to the regulation of architects and registered  
interior designers. Fees shall be based on department estimates  
of the revenue required to implement this part and the  
provisions of law with respect to the regulation of architects  
and interior designers.

Section 41. Section 481.209, Florida Statutes, is amended  
to read:

481.209 Examinations.—

(1) A person desiring to be licensed as a registered  
architect by initial examination shall apply to the department,  
complete the application form, and remit a nonrefundable  
application fee. The department shall license any applicant who  
the board certifies+

~~(a)~~ has passed the licensure examination prescribed by  
board rule+ and

~~(b)~~ is a graduate of a school or college of architecture  
with a program accredited by the National Architectural  
Accreditation Board.

(2) A person seeking to obtain a certificate of  
registration as a registered interior designer and a seal  
pursuant to s. 481.221 must provide the department with his or  
her name and address and written proof that he or she has  
successfully passed the qualification examination prescribed by  
the Council for Interior Design Qualification or its successor  
entity or the California Council for Interior Design  
Certification or its successor entity, or has successfully  
passed an equivalent exam as determined by the department A  
~~person desiring to be licensed as a registered interior designer~~  
~~shall apply to the department for licensure. The department~~





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~~shall administer the licensure examination for interior designers to each applicant who has completed the application form and remitted the application and examination fees specified in s. 481.207 and who the board certifies:~~

~~(a) Is a graduate from an interior design program of 5 years or more and has completed 1 year of diversified interior design experience;~~

~~(b) Is a graduate from an interior design program of 4 years or more and has completed 2 years of diversified interior design experience;~~

~~(c) Has completed at least 3 years in an interior design curriculum and has completed 3 years of diversified interior design experience; or~~

~~(d) Is a graduate from an interior design program of at least 2 years and has completed 4 years of diversified interior design experience.~~

~~Subsequent to October 1, 2000, for the purpose of having the educational qualification required under this subsection accepted by the board, the applicant must complete his or her education at a program, school, or college of interior design whose curriculum has been approved by the board as of the time of completion. Subsequent to October 1, 2003, all of the required amount of educational credits shall have been obtained in a program, school, or college of interior design whose curriculum has been approved by the board, as of the time each educational credit is gained. The board shall adopt rules providing for the review and approval of programs, schools, and colleges of interior design and courses of interior design study~~



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~~based on a review and inspection by the board of the curriculum of programs, schools, and colleges of interior design in the United States, including those programs, schools, and colleges accredited by the Foundation for Interior Design Education Research. The board shall adopt rules providing for the review and approval of diversified interior design experience required by this subsection.~~

Section 42. Section 481.213, Florida Statutes, is amended to read:

481.213 Licensure and registration.—

(1) The department shall license or register any applicant who the board certifies is qualified for licensure or registration and who has paid the initial licensure or registration fee. Licensure as an architect under this section shall be deemed to include all the rights and privileges of registration ~~licensure~~ as an interior designer under this section.

(2) The board shall certify for licensure or registration by examination any applicant who passes the prescribed licensure or registration examination and satisfies the requirements of ss. 481.209 and 481.211, for architects, or the requirements of s. 481.209, for interior designers.

(3) The board shall certify as qualified for a license by endorsement as an architect or registration as a registered ~~an~~ interior designer an applicant who:

(a) Qualifies to take the prescribed licensure or registration examination, and has passed the prescribed licensure registration examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209



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for architects or registered interior designers, as applicable,  
and has satisfied the internship requirements set forth in s.  
481.211 for architects;

(b) Holds a valid license to practice architecture or a  
license, registration, or certification to practice interior  
design issued by another jurisdiction of the United States, if  
the criteria for issuance of such license were substantially  
equivalent to the licensure criteria that existed in this state  
at the time the license was issued; ~~provided, however, that an  
applicant who has been licensed for use of the title "interior  
design" rather than licensed to practice interior design shall  
not qualify hereunder;~~ or

(c) Has passed the prescribed licensure examination and  
holds a valid certificate issued by the National Council of  
Architectural Registration Boards, and holds a valid license to  
practice architecture issued by another state or jurisdiction of  
the United States.

An architect who is licensed in another state who seeks  
qualification for license by endorsement under this subsection  
must complete a class approved by the board on the Florida  
Building Code.

(4) The board may refuse to certify any applicant who has  
violated any of the provisions of s. 481.223, s. 481.225, or s.  
481.2251, as applicable.

(5) The board may refuse to certify any applicant who is  
under investigation in any jurisdiction for any act which would  
constitute a violation of this part or of chapter 455 until such  
time as the investigation is complete and disciplinary



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proceedings have been terminated.

(6) The board shall adopt rules to implement the provisions of this part relating to the examination, internship, and licensure of applicants.

(7) For persons whose licensure requires satisfaction of the requirements of ss. 481.209 and 481.211, the board shall, by rule, establish qualifications for certification of such persons as special inspectors of threshold buildings, as defined in ss. 553.71 and 553.79, and shall compile a list of persons who are certified. A special inspector is not required to meet standards for certification other than those established by the board, and the fee owner of a threshold building may not be prohibited from selecting any person certified by the board to be a special inspector. The board shall develop minimum qualifications for the qualified representative of the special inspector who is authorized under s. 553.79 to perform inspections of threshold buildings on behalf of the special inspector.

(8) A certificate of registration is not required for a person whose occupation or practice is confined to interior decorator services or for a person whose occupation or practice is confined to interior design except as required in this part.

Section 43. Subsection (1) of section 481.2131, Florida Statutes, is amended to read:

481.2131 Interior design; practice requirements; disclosure of compensation for professional services.—

(1) A registered interior designer is authorized to perform "interior design" as defined in s. 481.203. Interior design documents prepared by a registered interior designer shall contain a statement that the document is not an architectural or



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engineering study, drawing, specification, or design and is not to be used for construction of any load-bearing columns, load-bearing framing or walls of structures, or issuance of any building permit, except as otherwise provided by law. Interior design documents that are prepared and sealed by a registered interior designer must ~~may~~, if required by a permitting body, be accepted by the permitting body ~~be submitted~~ for the issuance of a building permit for interior construction excluding design of any structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems or that materially affect lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems. Interior design documents submitted for the issuance of a building permit by an individual performing interior design services who is not a licensed architect must include a seal issued by the department and in conformance with the requirements of s. 481.221.

Section 44. Section 481.215, Florida Statutes, is amended to read:

481.215 Renewal of license or certificate of registration.—

(1) Subject to the requirement of subsection (3), the department shall renew a license or certificate of registration upon receipt of the renewal application and renewal fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificate of registrations.



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(3) A ~~No~~ license or certificate of registration renewal may  
not ~~shall~~ be issued to an architect or a registered an interior  
designer by the department until the licensee or registrant  
submits proof satisfactory to the department that, during the 2  
years before ~~prior to~~ application for renewal, the licensee or  
registrant participated per biennium in not less than 20 hours  
of at least 50 minutes each per biennium of continuing education  
approved by the board. The board shall approve only continuing  
education that builds upon the basic knowledge of architecture  
or interior design. The board may make exception from the  
requirements of continuing education in emergency or hardship  
cases.

(4) The board shall by rule establish criteria for the  
approval of continuing education courses and providers and shall  
by rule establish criteria for accepting alternative  
nonclassroom continuing education on an hour-for-hour basis.

(5) For architects, the board shall require, by rule  
adopted pursuant to ss. 120.536(1) and 120.54, 2 a specified  
number of hours in specialized or advanced courses, approved by  
~~the Florida Building Commission,~~ on any portion of the Florida  
Building Code, adopted pursuant to part IV of chapter 553,  
relating to the licensee's respective area of practice. Such  
hours count towards the continuing education hours required  
under subsection (3). A licensee may complete the courses  
required under this subsection online.

Section 45. Section 481.217, Florida Statutes, is amended  
to read:

481.217 Inactive status.—

(1) The board may prescribe by rule continuing education



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requirements as a condition of reactivating a license. The rules may not require more than one renewal cycle of continuing education to reactivate a license or registration for a registered architect or registered interior designer. ~~For interior design, the board may approve only continuing education that builds upon the basic knowledge of interior design.~~

(2) The board shall adopt rules relating to application procedures for inactive status and for the reactivation of inactive licenses and registrations.

Section 46. Section 481.219, Florida Statutes, is amended to read:

481.219 Qualification of business organizations  
~~certification of partnerships, limited liability companies, and corporations.-~~

(1) A licensee may ~~The practice of or the offer to practice architecture or interior design by licensees through a~~ qualified business organization that offers ~~corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted,~~ subject to the provisions of this section.

(2) If a licensee or an applicant proposes to engage in the practice of architecture as a business organization, the licensee or applicant shall qualify the business organization upon approval of the board ~~For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person~~



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~~practicing under a fictitious name, offering architectural services to the public jointly or separately. However, when an individual is practicing architecture in her or his own name, she or he shall not be required to be certified under this section. Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services.~~

(3) (a) A business organization may not engage in the practice of architecture unless its qualifying agent is a registered architect under this part. A qualifying agent who terminates an affiliation with a qualified business organization shall immediately notify the department of such termination. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of architecture until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization, the executive director or the chair of the board may authorize another registered architect employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent who has ceased employment.

(c) A qualifying agent shall notify the department in writing before engaging in the practice of architecture in her





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910 or his own name or in affiliation with a different business  
911 organization, and she or he or such business organization shall  
912 supply the same information to the department as required of  
913 applicants under this part.

914 ~~(3) For the purposes of this section, a certificate of~~  
915 ~~authorization shall be required for a corporation, limited~~  
916 ~~liability company, partnership, or person operating under a~~  
917 ~~fictitious name, offering interior design services to the public~~  
918 ~~jointly or separately. However, when an individual is practicing~~  
919 ~~interior design in her or his own name, she or he shall not be~~  
920 ~~required to be certified under this section.~~

921 (4) All final construction documents and instruments of  
922 service which include drawings, specifications, plans, reports,  
923 or other papers or documents that involve ~~involving~~ the practice  
924 of architecture which are prepared or approved for the use of  
925 the business organization ~~corporation, limited liability~~  
926 ~~company, or partnership~~ and filed for public record within the  
927 state must ~~shall~~ bear the signature and seal of the licensee who  
928 prepared or approved them and the date on which they were  
929 sealed.

930 ~~(5) All drawings, specifications, plans, reports, or other~~  
931 ~~papers or documents prepared or approved for the use of the~~  
932 ~~corporation, limited liability company, or partnership by an~~  
933 ~~interior designer in her or his professional capacity and filed~~  
934 ~~for public record within the state shall bear the signature and~~  
935 ~~seal of the licensee who prepared or approved them and the date~~  
936 ~~on which they were sealed.~~

937 ~~(6) The department shall issue a certificate of~~  
938 ~~authorization to any applicant who the board certifies as~~



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~~qualified for a certificate of authorization and who has paid the fee set in s. 481.207.~~

~~(7) The board shall allow a licensee or certify an applicant to qualify one or more business organizations as ~~qualified for a certificate of authorization~~ to offer architectural ~~or interior design~~ services, or to use a fictitious name to offer such services, if provided that:~~

~~(a) one or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as architects, are registered as provided by this part; or~~

~~(b) One or more of the principal officers of the corporation or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as interior designers, are registered as provided by this part.~~

~~(8) The department shall adopt rules establishing a procedure for the biennial renewal of certificates of authorization.~~

~~(9) The department shall renew a certificate of authorization upon receipt of the renewal application and biennial renewal fee.~~

~~(6)(10)~~ Each qualifying agent who qualifies a business organization, partnership, limited liability company, or ~~and~~ corporation certified under this section shall notify the department within 30 days after ~~of~~ any change in the information contained in the application upon which the qualification



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~~certification~~ is based. Any registered architect or interior designer who qualifies the business organization shall ensure ~~corporation, limited liability company, or partnership as provided in subsection (7)~~ shall be responsible for ensuring responsible supervising control of projects of the business organization ~~entity~~ and shall notify the department of the ~~upon~~ termination of her or his employment with a business organization qualified ~~partnership, limited liability company, or corporation~~ certified under this section shall notify the ~~department of the termination~~ within 30 days after such termination.

~~(7)(11)~~ A business organization is not ~~No corporation, limited liability company, or partnership~~ shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, except as provided in s. 558.0035, the architect who signs and seals the construction documents and instruments of service is ~~shall be~~ liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

~~(12)~~ Disciplinary action against a corporation, limited liability company, or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered architect or interior designer, respectively.

~~(8)(13)~~ Nothing in This section may not ~~shall~~ be construed to mean that a certificate of registration to practice architecture must ~~or interior design shall~~ be held by a business



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997 ~~organization corporation, limited liability company, or~~  
998 ~~partnership. Nothing in~~ This section does not prohibit a  
999 business organization from offering ~~prohibits corporations,~~  
1000 ~~limited liability companies, and partnerships from joining~~  
1001 ~~together to offer architectural, engineering, interior design,~~  
1002 ~~surveying and mapping, and landscape architectural services, or~~  
1003 ~~any combination of such services, to the public if the business~~  
1004 organization, ~~provided that each corporation, limited liability~~  
1005 ~~company, or partnership~~ otherwise meets the requirements of law.

1006 ~~(14) Corporations, limited liability companies, or~~  
1007 ~~partnerships holding a valid certificate of authorization to~~  
1008 ~~practice architecture shall be permitted to use in their title~~  
1009 ~~the term "interior designer" or "registered interior designer."~~

1010 Section 47. Subsections (5) and (10) of section 481.221,  
1011 Florida Statutes, are amended to read:

1012 481.221 Seals; display of certificate number.—

1013 (5) No registered interior designer shall affix, or permit  
1014 to be affixed, her or his seal or signature to any plan,  
1015 specification, drawing, or other document which depicts work  
1016 which she or he is not competent or registered ~~licensed~~ to  
1017 perform.

1018 (10) Each registered architect must ~~or interior designer,~~  
1019 ~~and each corporation, limited liability company, or partnership~~  
1020 ~~holding a certificate of authorization, shall include her or his~~  
1021 license ~~its certificate~~ number in any newspaper, telephone  
1022 directory, or other advertising medium used by the registered  
1023 licensee. Each business organization must include the license  
1024 number of the registered architect who serves as the qualifying  
1025 agent for that business organization in any newspaper, telephone



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directory, or other advertising medium used by the business  
organization ~~architect, interior designer, corporation, limited~~  
~~liability company, or partnership. A corporation, limited~~  
~~liability company, or partnership is not required to display the~~  
~~certificate number of individual registered architects or~~  
~~interior designers employed by or working within the~~  
~~corporation, limited liability company, or partnership.~~

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

And the title is amended as follows:

Delete lines 3 - 130

and insert:

occupations; providing a short title; amending s.  
322.57, F.S.; defining the term "servicemember";  
requiring the Department of Highway Safety and Motor  
Vehicles to waive the requirement to pass the  
Commercial Driver License Skills Tests for certain  
servicemembers and veterans; requiring an applicant  
who receives such waiver to complete certain  
requirements within a specified time; requiring the  
department to adopt rules; amending s. 326.004, F.S.;  
deleting the requirement that a yacht broker maintain  
a separate license for each branch office; deleting  
the requirement that the Division of Florida  
Condominiums, Timeshares, and Mobile Homes establish a  
fee; amending s. 447.02, F.S.; conforming provisions  
to changes made by the act; repealing s. 447.04, F.S.,  
relating to licensure and permit requirements for  
business agents; repealing s. 447.041, F.S., relating



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1055 to hearings for persons or labor organizations denied  
1056 licensure as a business agent; repealing s. 447.045,  
1057 F.S., relating to confidential information obtained  
1058 during the application process; repealing s. 447.06,  
1059 F.S., relating to required registration of labor  
1060 organizations; amending s. 447.09, F.S.; deleting  
1061 certain prohibited actions relating to the right of  
1062 franchise of a member of a labor organization;  
1063 repealing s. 447.12, F.S., relating to registration  
1064 fees; repealing s. 447.16, F.S., relating to  
1065 applicability; amending s. 447.305, F.S.; deleting a  
1066 provision that requires notification of registrations  
1067 and renewals to the Department of Business and  
1068 Professional Regulation; amending s. 455.213, F.S.;  
1069 requiring the department or a board to enter into  
1070 reciprocal licensing agreements with other states  
1071 under certain circumstances; providing requirements;  
1072 amending s. 456.072, F.S.; specifying that the failure  
1073 to repay certain student loans is not considered a  
1074 failure to perform a statutory or legal obligation for  
1075 which certain disciplinary action can be taken;  
1076 conforming provisions to changes made by the act;  
1077 repealing s. 456.0721, F.S., relating to health care  
1078 practitioners who are in default on student loan or  
1079 scholarship obligations; amending s. 456.074, F.S.;  
1080 deleting a provision relating to the suspension of a  
1081 license issued by the Department of Health for  
1082 defaulting on certain student loans; amending s.  
1083 468.385, F.S.; revising requirements relating to



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1084 businesses auctioning or offering to auction property  
1085 in this state; amending s. 468.603, F.S.; revising  
1086 which inspectors are included in the definition of the  
1087 term "categories of building code inspectors";  
1088 amending s. 468.613, F.S.; providing for waiver of  
1089 specified requirements for certification under certain  
1090 circumstances; amending s. 468.8314, F.S.; requiring  
1091 an applicant for a license by endorsement to maintain  
1092 a specified insurance policy; requiring the department  
1093 to certify an applicant who holds a specified license  
1094 issued by another state or territory of the United  
1095 States under certain circumstances; amending s.  
1096 471.015, F.S.; revising licensure requirements for  
1097 engineers who hold specified licenses in another  
1098 state; amending s. 473.308, F.S.; deleting continuing  
1099 education requirements for license by endorsement for  
1100 certified public accountants; amending s. 474.202,  
1101 F.S.; revising the definition of the term "limited-  
1102 service veterinary medical practice" to include  
1103 certain procedures; amending s. 474.207, F.S.;  
1104 revising education requirements for licensure by  
1105 examination; amending s. 474.217, F.S.; requiring the  
1106 department to issue a license by endorsement to  
1107 certain applicants who successfully complete a  
1108 specified examination; amending s. 476.114, F.S.;  
1109 revising training requirements for licensure as a  
1110 barber; amending s. 476.144, F.S.; requiring the  
1111 department to certify as qualified for licensure by  
1112 endorsement an applicant who is licensed to practice



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1113       barbering in another state; amending s. 477.013, F.S.;  
1114       revising the definition of the term "hair braiding";  
1115       repealing s. 477.0132, F.S., relating to registration  
1116       for hair braiding, hair wrapping, and body wrapping;  
1117       amending s. 477.0135, F.S.; providing additional  
1118       exemptions from license or registration requirements  
1119       for specified occupations or practices; amending s.  
1120       477.019, F.S.; deleting a provision prohibiting the  
1121       Board of Cosmetology from asking for proof of certain  
1122       educational hours under certain circumstances;  
1123       revising requirements for certification of licensure  
1124       by endorsement for a certain applicant to engage in  
1125       the practice of cosmetology; conforming provisions to  
1126       changes made by the act; amending s. 477.0201, F.S.;  
1127       providing requirements for registration as a  
1128       specialist; amending s. 477.026, F.S.; conforming  
1129       provisions to changes made by the act; amending s.  
1130       477.0263, F.S.; providing that certain cosmetology  
1131       services may be performed in a location other than a  
1132       licensed salon under certain circumstances; amending  
1133       ss. 477.0265 and 477.029, F.S.; conforming provisions  
1134       to changes made by the act; amending s. 481.201, F.S.;  
1135       deleting legislative findings relating to the practice  
1136       of interior design; amending s. 481.203, F.S.;  
1137       revising and deleting definitions; amending s.  
1138       481.205, F.S.; conforming provisions to changes made  
1139       by the act; amending s. 481.207, F.S.; revising  
1140       certain fees for interior designers; conforming  
1141       provisions to changes made by the act; amending s.





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1142 481.209, F.S.; providing requirements for a  
1143 certificate of registration and a seal for interior  
1144 designers; conforming provisions to changes made by  
1145 the act; amending s. 481.213, F.S.; revising  
1146 requirements for certification of licensure by  
1147 endorsement for a certain licensee to engage in the  
1148 practice of architecture; providing that a  
1149 registration is not required for specified persons to  
1150 practice; conforming provisions to changes made by the  
1151 act; amending s. 481.2131, F.S.; requiring certain  
1152 interior designers to include a specified seal when  
1153 submitting documents for the issuance of a building  
1154 permit; amending s. 481.215, F.S.; conforming  
1155 provisions to changes made by the act; revising the  
1156 number of hours of specified courses the board must  
1157 require for the renewal of a license or certificate of  
1158 registration; authoring licensees to complete certain  
1159 courses online; amending s. 481.217, F.S.; conforming



538138

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 863 - 894

and insert:

481.207 Fees.—The board, by rule, may establish ~~separate~~ fees for architects and registered interior designers, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination



538138

and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable. The fee for initial application and examination for architects ~~and interior designers~~ may not exceed \$775 plus the actual per applicant cost to the department for purchase of the examination from the National Council of Architectural Registration Boards ~~or the National Council of Interior Design Qualifications, respectively,~~ or similar national organizations. The initial nonrefundable fee for registered interior designers may not exceed \$75. The biennial renewal fee for architects may not exceed \$200. The biennial renewal fee for registered interior designers may not exceed \$75 ~~\$500~~. The delinquency fee may not exceed the biennial renewal fee established by the board for an active license. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of architects and registered interior designers. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of architects and interior designers.

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

And the title is amended as follows:

Delete lines 108 - 113

and insert:

by the act; amending s. 481.207, F.S.; revising certain fees for interior designers; conforming provisions to



510452

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1080 - 1085  
and insert:

(5) For architects, the board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, 2 a specified ~~number of~~ hours in specialized or advanced courses, ~~approved by the Florida Building Commission,~~ on any portion of the Florida Building Code, adopted pursuant to part IV of chapter 553, relating to the licensee's respective area of practice. Such



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hours count towards the continuing education hours required  
under subsection (3). A licensee may complete the courses  
required under this subsection online.

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

And the title is amended as follows:

Delete lines 128 - 130

and insert:

by the act; revising the number of hours of specified  
courses the board must require for the renewal of a  
license or certificate of registration; authoring  
licensees to complete certain courses online; amending  
s. 481.217, F.S.; conforming



867106

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1605 and 1606  
insert:

Section 56. Subsection (4) of section 481.313, Florida Statutes, is amended to read:

481.313 Renewal of license.—

(4) The board, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall establish criteria for the approval of continuing education courses and providers, and shall by rule



867106

establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. A landscape architect shall receive hour-for-hour credit for attending continuing education courses approved by the Landscape Architecture Continuing Education System or another nationally recognized clearinghouse for continuing education that relate to and increase his or her basic knowledge of landscape architecture, as determined by the board, if the landscape architect submits proof satisfactory to the board that such course was approved by the Landscape Architecture Continuing Education System or another nationally recognized clearinghouse for continuing education, along with the syllabus or outline for such course and proof of course attendance.

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

And the title is amended as follows:

Between lines 159 and 160

insert:

481.313, F.S.; authorizing a landscape architect to receive hour-for-hour credit for certain approved continuing education courses under certain circumstances; amending s.



569536

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1853 - 1878  
and insert:  
license was last active. Within 30 days after receiving a  
license, the licensee must complete a board-approved 4-hour  
continuing education course on the Florida Building Code and a  
1-hour course on the laws and rules of this state relating to  
contracting. The required courses may be completed online.

Section 63. Subsection (5) of section 489.511, Florida





569536

Statutes, is amended to read:

489.511 Certification; application; examinations;  
endorsement.—

(5) The board shall certify as qualified for certification  
by endorsement any individual applying for certification who:

(a) Meets the requirements for certification as set forth  
in this section; has passed a national, regional, state, or  
United States territorial licensing examination that is  
substantially equivalent to the examination required by this  
part; and has satisfied the requirements set forth in s.

489.521; ~~or~~

(b) Holds a valid license to practice electrical or alarm  
system contracting issued by another state or territory of the  
United States, if the criteria for issuance of such license was  
substantially equivalent to the certification criteria that  
existed in this state at the time the certificate was issued; or

(c) Has held a valid, current license to practice  
electrical or alarm system contracting issued by another state  
or territory of the United States for at least 10 years before  
the date of application and is applying for the same or similar  
license in this state, subject to ss. 489.510 and 489.521(3)(a),  
and subparagraph (1)(b)1. Such application must be made either  
when the license in another state or territory is active or  
within 2 years after such license was last active. Within 30  
days after receiving a license, the licensee must complete a  
board-approved 4-hour continuing education course on the Florida  
Building Code and a 1-hour course on the laws and rules of this  
state relating to electrical and alarm system contracting. The  
required courses may be completed online.



569536

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

And the title is amended as follows:

Delete lines 176 - 181

and insert:

circumstances; requiring such applicant to complete  
certain training by a specified time after receiving a  
license; amending s. 489.511, F.S.; requiring the  
board to certify as qualified for certification by  
endorsement any applicant who holds a specified  
license to practice electrical or alarm system  
contracting issued by another state or territory of  
the United States under certain circumstances;  
requiring such applicant to complete certain training  
by a specified time after receiving a license;



751274

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1883 - 1899  
and insert:

(3)(a) Each certificateholder or registrant licensed as a specialty contractor or an alarm system contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 7 ~~14~~ classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or



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renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(b) Each certificateholder or registrant licensed as an electrical contractor shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 11 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(4)

(b)1. For licensed specialty contractors or alarm system contractors, of the 7 14 classroom hours of continuing education required, at least 1 hour 7 hours must be 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.

2. For licensed electrical contractors, of the minimum 11 classroom hours of continuing education required, at least 7 hours must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, and 1 hour on business practices. Electrical contractors engaged in alarm system contracting must also complete 2 hours on false alarm



751274

40 prevention.

41

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

43 And the title is amended as follows:

44       Delete line 184

45 and insert:

46       certain contractors; amending s. 489.518, F.S.;



891252

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1932 - 1943

and insert:

licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for



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the operation of a mobile food dispensing vehicle within the  
entity's jurisdiction. A municipality, county, or other local  
governmental entity may not prohibit mobile food dispensing  
vehicles from operating within the entirety of the entity's  
jurisdiction.

(3) This section may not be construed to affect a  
municipality, county, or other local governmental entity's  
authority to regulate the operation of mobile food dispensing  
vehicles other than the regulations described in subsection (2).

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

And the title is amended as follows:

Delete lines 188 - 190

and insert:

s. 509.102; defining the term "mobile food dispensing  
vehicle"; preempting certain regulation of mobile food  
dispensing vehicles to the state; prohibiting certain  
entities from prohibiting mobile food dispensing  
vehicles from operating within the entirety of such  
entities' jurisdictions; providing construction;  
amending s. 548.003,



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment**

Delete lines 2000 - 2114

and insert:

is composed of 15 ~~27~~ members, consisting of the following members:

(a) One architect licensed pursuant to chapter 481 with at least 5 years of experience in the design and construction of buildings designated for Group E or Group I occupancies by the Florida Building Code ~~registered to practice in this state and~~





688848

11 ~~actively engaged in the profession.~~ The American Institute of  
12 Architects, Florida Section, is encouraged to recommend a list  
13 of candidates for consideration.

14 (b) One structural engineer registered to practice in this  
15 state and actively engaged in the profession. The Florida  
16 Engineering Society is encouraged to recommend a list of  
17 candidates for consideration.

18 (c) One air-conditioning contractor, ~~or~~ mechanical  
19 contractor, or mechanical engineer certified to do business in  
20 this state and actively engaged in the profession. The Florida  
21 Air Conditioning Contractors Association, the Florida  
22 Refrigeration and Air Conditioning Contractors Association, ~~and~~  
23 the Mechanical Contractors Association of Florida, and the  
24 Florida Engineering Society are encouraged to recommend a list  
25 of candidates for consideration.

26 (d) One electrical contractor or electrical engineer  
27 certified to do business in this state and actively engaged in  
28 the profession. The Florida Association of Electrical  
29 Contractors, ~~and~~ the National Electrical Contractors  
30 Association, Florida Chapter, and the Florida Engineering  
31 Society are encouraged to recommend a list of candidates for  
32 consideration.

33 (e) One member from fire protection engineering or  
34 technology who is actively engaged in the profession. The  
35 Florida Chapter of the Society of Fire Protection Engineers and  
36 the Florida Fire Marshals and Inspectors Association are  
37 encouraged to recommend a list of candidates for consideration.

38 (f) One certified general contractor or one certified  
39 building contractor certified to do business in this state and



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actively engaged in the profession. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, the Florida Home Builders Association, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration.

(g) One plumbing contractor licensed to do business in this state and actively engaged in the profession. The Florida Association of Plumbing, Heating, and Cooling Contractors is encouraged to recommend a list of candidates for consideration.

(h) One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession. The Florida Roofing, Sheet Metal, and Air Conditioning Contractors Association and the Sheet Metal and Air Conditioning Contractors' National Association are encouraged to recommend a list of candidates for consideration.

(i) One certified residential contractor licensed to do business in this state and actively engaged in the profession. The Florida Home Builders Association is encouraged to recommend a list of candidates for consideration.

(j) One member who is a ~~Three members who are~~ municipal or district codes enforcement official ~~officials, one of whom is also a fire official~~. The Building Officials Association of Florida and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

(k) One member who represents the Department of Financial Services.

(l) One member who is a county codes enforcement official. The Building Officials Association of Florida is encouraged to



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69 recommend a list of candidates for consideration.

70 (m) One member of a Florida-based organization of persons  
71 with disabilities or a nationally chartered organization of  
72 persons with disabilities with chapters in this state which  
73 complies with or is certified to be compliant with the  
74 requirements of the Americans with Disability Act of 1990, as  
75 amended.

76 (n) One member of the manufactured buildings industry who  
77 is licensed to do business in this state and is actively engaged  
78 in the industry. The Florida Manufactured Housing Association is  
79 encouraged to recommend a list of candidates for consideration.

80 ~~(o) One mechanical or electrical engineer registered to~~  
81 ~~practice in this state and actively engaged in the profession.~~  
82 ~~The Florida Engineering Society is encouraged to recommend a~~  
83 ~~list of candidates for consideration.~~

84 ~~(p) One member who is a representative of a municipality or~~  
85 ~~a charter county. The Florida League of Cities and the Florida~~  
86 ~~Association of Counties are encouraged to recommend a list of~~  
87 ~~candidates for consideration.~~

88 ~~(q) One member of the building products manufacturing~~  
89 ~~industry who is authorized to do business in this state and is~~  
90 ~~actively engaged in the industry. The Florida Building Material~~  
91 ~~Association, the Florida Concrete and Products Association, and~~  
92 ~~the Fenestration Manufacturers Association are encouraged to~~  
93 ~~recommend a list of candidates for consideration.~~

94 ~~(r) One member who is a representative of the building~~  
95 ~~owners and managers industry who is actively engaged in~~  
96 ~~commercial building ownership or management. The Building Owners~~  
97 ~~and Managers Association is encouraged to recommend a list of~~



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~~candidates for consideration.~~

~~(o)(s) One member who is a representative of the insurance industry. The Florida Insurance Council is encouraged to recommend a list of candidates for consideration.~~

~~(t) One member who is a representative of public education.~~

~~(u) One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession. The Florida Swimming Pool Association and the United Pool and Spa Association are encouraged to recommend a list of candidates for consideration.~~

~~(v) 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).~~

~~(w) One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state. The Florida Natural Gas Association is encouraged to recommend a list of candidates for consideration.~~



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 2119 and 2120  
insert:

Section 71. Subsection (5) is added to section 823.15, Florida Statutes, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(5) Employees, agents, or contractors of a public or private animal shelter, a humane organization, or an animal



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control agency operated by a humane organization or by a county,  
municipality, or other incorporated political subdivision may  
implant dogs and cats with radio frequency identification  
microchips as part of their work with such public or private  
animal shelter, humane organization, or animal control agency.

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

And the title is amended as follows:

Between lines 198 and 199

insert:

amending s. 823.15, F.S.; authorizing certain persons  
to implant dogs and cats with specified microchips  
under certain circumstances;

By the Committee on Innovation, Industry, and Technology; and  
Senator Albritton

580-02430-20

2020474c1

1 A bill to be entitled  
2 An act relating to the deregulation of professions and  
3 occupations; providing a short title; amending s.  
4 20.165, F.S.; renaming the Board of Architecture and  
5 Interior Design as the Board of Architecture within  
6 the Department of Business and Professional  
7 Regulation; amending s. 322.57, F.S.; defining the  
8 term "servicemember"; requiring the Department of  
9 Highway Safety and Motor Vehicles to waive the  
10 requirement to pass the Commercial Driver License  
11 Skills Tests for certain servicemembers and veterans;  
12 requiring an applicant who receives such waiver to  
13 complete certain requirements within a specified time;  
14 requiring the department to adopt rules; amending s.  
15 326.004, F.S.; deleting the requirement that a yacht  
16 broker maintain a separate license for each branch  
17 office; deleting the requirement that the Division of  
18 Florida Condominiums, Timeshares, and Mobile Homes  
19 establish a fee; amending s. 447.02, F.S.; conforming  
20 provisions to changes made by the act; repealing s.  
21 447.04, F.S., relating to licensure and permit  
22 requirements for business agents; repealing s.  
23 447.041, F.S., relating to hearings for persons or  
24 labor organizations denied licensure as a business  
25 agent; repealing s. 447.045, F.S., relating to  
26 confidential information obtained during the  
27 application process; repealing s. 447.06, F.S.,  
28 relating to required registration of labor  
29 organizations; amending s. 447.09, F.S.; deleting

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30 certain prohibited actions relating to the right of  
31 franchise of a member of a labor organization;  
32 repealing s. 447.12, F.S., relating to registration  
33 fees; repealing s. 447.16, F.S., relating to  
34 applicability; amending s. 447.305, F.S.; deleting a  
35 provision that requires notification of registrations  
36 and renewals to the Department of Business and  
37 Professional Regulation; amending s. 455.213, F.S.;  
38 requiring the department or a board to enter into  
39 reciprocal licensing agreements with other states  
40 under certain circumstances; providing requirements;  
41 amending s. 456.072, F.S.; specifying that the failure  
42 to repay certain student loans is not considered a  
43 failure to perform a statutory or legal obligation for  
44 which certain disciplinary action can be taken;  
45 conforming provisions to changes made by the act;  
46 repealing s. 456.0721, F.S., relating to health care  
47 practitioners who are in default on student loan or  
48 scholarship obligations; amending s. 456.074, F.S.;  
49 deleting a provision relating to the suspension of a  
50 license issued by the Department of Health for  
51 defaulting on certain student loans; amending s.  
52 468.385, F.S.; revising requirements relating to  
53 businesses auctioning or offering to auction property  
54 in this state; amending s. 468.603, F.S.; revising  
55 which inspectors are included in the definition of the  
56 term "categories of building code inspectors";  
57 amending s. 468.613, F.S.; providing for waiver of  
58 specified requirements for certification under certain

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59 circumstances; amending s. 468.8314, F.S.; requiring  
 60 an applicant for a license by endorsement to maintain  
 61 a specified insurance policy; requiring the department  
 62 to certify an applicant who holds a specified license  
 63 issued by another state or territory of the United  
 64 States under certain circumstances; amending s.  
 65 471.015, F.S.; revising licensure requirements for  
 66 engineers who hold specified licenses in another  
 67 state; amending s. 473.308, F.S.; deleting continuing  
 68 education requirements for license by endorsement for  
 69 certified public accountants; amending s. 474.202,  
 70 F.S.; revising the definition of the term "limited-  
 71 service veterinary medical practice" to include  
 72 certain procedures; amending s. 474.207, F.S.;  
 73 revising education requirements for licensure by  
 74 examination; amending s. 474.217, F.S.; requiring the  
 75 department to issue a license by endorsement to  
 76 certain applicants who successfully complete a  
 77 specified examination; amending s. 476.114, F.S.;  
 78 revising training requirements for licensure as a  
 79 barber; amending s. 476.144, F.S.; requiring the  
 80 department to certify as qualified for licensure by  
 81 endorsement an applicant who is licensed to practice  
 82 barbering in another state; amending s. 477.013, F.S.;  
 83 revising the definition of the term "hair braiding";  
 84 repealing s. 477.0132, F.S., relating to registration  
 85 for hair braiding, hair wrapping, and body wrapping;  
 86 amending s. 477.0135, F.S.; providing additional  
 87 exemptions from license or registration requirements

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88 for specified occupations or practices; amending s.  
 89 477.019, F.S.; deleting a provision prohibiting the  
 90 Board of Cosmetology from asking for proof of certain  
 91 educational hours under certain circumstances;  
 92 revising requirements for certification of licensure  
 93 by endorsement for a certain applicant to engage in  
 94 the practice of cosmetology; conforming provisions to  
 95 changes made by the act; amending s. 477.0201, F.S.;  
 96 providing requirements for registration as a  
 97 specialist; amending s. 477.026, F.S.; conforming  
 98 provisions to changes made by the act; amending s.  
 99 477.0263, F.S.; providing that certain cosmetology  
 100 services may be performed in a location other than a  
 101 licensed salon under certain circumstances; amending  
 102 ss. 477.0265 and 477.029, F.S.; conforming provisions  
 103 to changes made by the act; amending s. 481.201, F.S.;  
 104 deleting legislative findings relating to the practice  
 105 of interior design; amending s. 481.203, F.S.;  
 106 revising and deleting definitions; amending s.  
 107 481.205, F.S.; conforming provisions to changes made  
 108 by the act; amending s. 481.207, F.S.; authorizing the  
 109 board to establish certain fees for certificates of  
 110 registration for interior designers; specifying that  
 111 such registration is valid for a specified period of  
 112 time; authorizing registered interior designers to  
 113 renew such registration; conforming provisions to  
 114 changes made by the act; amending s. 481.209, F.S.;  
 115 providing requirements for a certificate of  
 116 registration and a seal for interior designers;

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117 conforming provisions to changes made by the act;  
 118 amending s. 481.213, F.S.; revising requirements for  
 119 certification of licensure by endorsement for a  
 120 certain licensee to engage in the practice of  
 121 architecture; providing that a registration is not  
 122 required for specified persons to practice; conforming  
 123 provisions to changes made by the act; amending s.  
 124 481.2131, F.S.; requiring certain interior designers  
 125 to include a specified seal when submitting documents  
 126 for the issuance of a building permit; amending s.  
 127 481.215, F.S.; conforming provisions to changes made  
 128 by the act; deleting a provision requiring a specified  
 129 number of hours in certain courses for the renewal of  
 130 a license; amending s. 481.217, F.S.; conforming  
 131 provisions to changes made by the act; amending s.  
 132 481.219, F.S.; deleting provisions permitting the  
 133 practice of or offer to practice interior design  
 134 through certain business organizations; deleting  
 135 provisions requiring certificates of authorization for  
 136 certain business organizations offering interior  
 137 design services to the public; requiring a licensee or  
 138 applicant in the practice of architecture to qualify  
 139 as a business organization; providing requirements;  
 140 amending s. 481.221, F.S.; conforming provisions to  
 141 changes made by the act; requiring registered  
 142 architects and certain business organizations to  
 143 display certain license numbers in specified  
 144 advertisements; amending s. 481.223, F.S.; providing  
 145 construction; conforming provisions to changes made by

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146 the act; amending s. 481.2251, F.S.; revising the acts  
 147 that constitute grounds for disciplinary actions  
 148 relating to interior designers; conforming provisions  
 149 to changes made by the act; amending ss. 481.229 and  
 150 481.231, F.S.; conforming provisions to changes made  
 151 by the act; amending s. 481.303, F.S.; deleting the  
 152 definition of the term "certificate of authorization";  
 153 amending s. 481.310, F.S.; providing that an applicant  
 154 who holds certain degrees is not required to  
 155 demonstrate 1 year of practical experience for  
 156 licensure; amending s. 481.311, F.S.; revising  
 157 requirements for certification of licensure by  
 158 endorsement for a certain applicant to engage in the  
 159 practice of landscape architecture; amending s.  
 160 481.317, F.S.; conforming provisions to changes made  
 161 by the act; amending s. 481.319, F.S.; deleting the  
 162 requirement for a certificate of authorization;  
 163 authorizing landscape architects to practice in the  
 164 name of a corporation or partnership; amending s.  
 165 481.321, F.S.; requiring a landscape architect to  
 166 display a certain certificate number in specified  
 167 advertisements; amending s. 481.329, F.S.; conforming  
 168 a cross-reference; amending s. 489.103, F.S.; revising  
 169 certain contract prices for exemption; amending s.  
 170 489.111, F.S.; revising provisions relating to  
 171 eligibility for licensure; amending s. 489.115, F.S.;  
 172 requiring the Construction Industry Licensing Board to  
 173 certify any applicant who holds a specified license to  
 174 practice contracting issued by another state or

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territory of the United States under certain circumstances; amending s. 489.511, F.S.; requiring the board to certify as qualified for certification by endorsement any applicant who holds a specified license to practice electrical or alarm system contracting issued by another state or territory of the United States under certain circumstances; amending s. 489.517, F.S.; providing a reduction in certain continuing education hours required for registered contractors; amending s. 489.518, F.S.; requiring a person to have completed a specified amount of training within a certain time period to perform the duties of an alarm system agent; creating s. 509.102; preempting the regulation of mobile food dispensing vehicles to the state; defining the term mobile food dispensing vehicle; amending s. 548.003, F.S.; deleting the requirement that the Florida State Boxing Commission adopt rules relating to a knockdown timekeeper; amending s. 548.017, F.S.; deleting the licensure requirement for a timekeeper or an announcer; amending s. 553.5141, F.S.; conforming provisions to changes made by the act; amending s. 553.74, F.S.; revising the membership and qualifications of the Florida Building Commission; amending ss. 558.002, 559.25, and 287.055, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

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Section 1. This act may be cited as the "Occupational Freedom and Opportunity Act."

Section 2. Paragraph (a) of subsection (4) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—  
There is created a Department of Business and Professional Regulation.

(4)(a) The following boards and programs are established within the Division of Professions:

1. Board of Architecture ~~and Interior Design~~, created under part I of chapter 481.
2. Florida Board of Auctioneers, created under part VI of chapter 468.
3. Barbers' Board, created under chapter 476.
4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.
5. Construction Industry Licensing Board, created under part I of chapter 489.
6. Board of Cosmetology, created under chapter 477.
7. Electrical Contractors' Licensing Board, created under part II of chapter 489.
8. Board of Employee Leasing Companies, created under part XI of chapter 468.
9. Board of Landscape Architecture, created under part II of chapter 481.
10. Board of Pilot Commissioners, created under chapter 310.
11. Board of Professional Engineers, created under chapter

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

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471.

12. Board of Professional Geologists, created under chapter

492.

13. Board of Veterinary Medicine, created under chapter

474.

14. Home inspection services licensing program, created under part XV of chapter 468.

15. Mold-related services licensing program, created under part XVI of chapter 468.

Section 3. Present subsection (4) of section 322.57, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read

322.57 Tests of knowledge concerning specified vehicles; endorsement; nonresidents; violations.—

(4) (a) As used in this subsection, the term “servicemember” means a member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, the Florida National Guard, or the Florida Air National Guard.

(b) The department shall waive the requirement to pass the Commercial Driver License Skills Tests for servicemembers and veterans if:

1. The applicant has been honorably discharged from military service within 1 year of the application, if the applicant is a veteran;

2. The applicant is trained as an MOS 88M Army Motor Transport Operator or similar military job specialty;

3. The applicant has received training to operate large trucks in compliance with the Federal Motor Carrier Safety

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Administration; and

4. The applicant has at least 2 years of experience in the military driving vehicles that would require a commercial driver license to operate.

(c) An applicant must complete every other requirement for a commercial driver license within 1 year of receiving a waiver under paragraph (b) or the waiver is invalid.

(d) The department shall adopt rules to administer this subsection.

Section 4. Subsection (13) of section 326.004, Florida Statutes, is amended to read:

326.004 Licensing.—

(13) Each broker must maintain a principal place of business in this state and may establish branch offices in the state. ~~A separate license must be maintained for each branch office. The division shall establish by rule a fee not to exceed \$100 for each branch office license.~~

Section 5. Subsection (3) of section 447.02, Florida Statutes, is amended to read:

447.02 Definitions.—The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

~~(3) The term “department” means the Department of Business and Professional Regulation.~~

Section 6. Section 447.04, Florida Statutes, is repealed.

Section 7. Section 447.041, Florida Statutes, is repealed.

Section 8. Section 447.045, Florida Statutes, is repealed.

Section 9. Section 447.06, Florida Statutes, is repealed.

Section 10. Subsections (6) and (8) of section 447.09,

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Florida Statutes, are amended to read:

447.09 Right of franchise preserved; penalties.—It shall be unlawful for any person:

~~(6) To act as a business agent without having obtained and possessing a valid and subsisting license or permit.~~

~~(8) To make any false statement in an application for a license.~~

Section 11. Section 447.12, Florida Statutes, is repealed.

Section 12. Section 447.16, Florida Statutes, is repealed.

Section 13. Subsection (4) of section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

~~(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the Department of Business and Professional Regulation.~~

Section 14. Subsection (14) is added to section 455.213, Florida Statutes, to read:

455.213 General licensing provisions.—

(14) The department or a board must enter into a reciprocal licensing agreement with other states if the practice act within the purview of this chapter permits such agreement. If a reciprocal licensing agreement exists or if the department or board has determined another state's licensing requirements or examinations to be substantially equivalent or more stringent to those under the practice act, the department or board must post on its website which jurisdictions have such reciprocal licensing agreements or substantially similar licenses.

Section 15. Paragraph (k) of subsection (1) of section

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456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan is not or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, ~~and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount.~~ Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

Section 16. Section 456.0721, Florida Statutes, is repealed.

Section 17. Subsection (4) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

~~(4) Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license~~

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unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.

Section 18. Paragraph (b) of subsection (7) of section 468.385, Florida Statutes, is amended to read:

468.385 Licenses required; qualifications; examination.—  
(7)

(b) A ~~No~~ business may not ~~shall~~ auction or offer to auction any property in this state unless it is owned by an auctioneer who is licensed as an auction business by the department board or is exempt from licensure under this act. Each application for licensure must ~~shall~~ include the names of the owner and the business, the business mailing address and location, and any other information which the board may require. The owner of an auction business shall report to the board within 30 days of any change in this required information.

Section 19. Paragraph (f) of subsection (5) of section 468.603, Florida Statutes, is amended to read:

468.603 Definitions.—As used in this part:

(5) "Categories of building code inspectors" include the following:

(f) "Residential One and two family dwelling inspector" means a person who is qualified to inspect and determine that one-family, two-family, or three-family residences not exceeding

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two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith one and two family dwellings and accessory structures are constructed in accordance with the provisions of the governing building, plumbing, mechanical, accessibility, and electrical codes.

Section 20. Section 468.613, Florida Statutes, is amended to read:

468.613 Certification by endorsement.—The board shall examine other certification or training programs, as applicable, upon submission to the board for its consideration of an application for certification by endorsement. The board shall waive its examination, qualification, education, or training requirements, to the extent that such examination, qualification, education, or training requirements of the applicant are determined by the board to be comparable with those established by the board. The board shall waive its examination, qualification, education, or training requirements if an applicant for certification by endorsement is at least 18 years of age; is of good moral character; has held a valid building administrator, inspector, plans examiner, or the equivalent, certification issued by another state or territory of the United States for at least 10 years before the date of application; and has successfully passed an applicable examination administered by the International Code Council. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 21. Subsection (3) of section 468.8314, Florida Statutes, is amended to read:

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468.8314 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character as determined in s. 468.8313, who maintains an insurance policy as required by s. 468.8322, and who:

(a) 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 those required by this part; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by this part; or

(b) Has held a valid license to practice home inspection services issued by another state or territory of the United States for at least 10 years before the date of application. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 22. Subsection (5) of section 471.015, Florida Statutes, is amended to read:

471.015 Licensure.—

(5) (a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 10 15 years and has had 20 years of continuous professional level engineering experience.

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially

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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 15 25 years ~~and has had 30 years of continuous professional-level engineering experience.~~

Section 23. Subsection (7) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(7) The board shall certify as qualified for a license by endorsement an applicant who:

(a) ~~1.~~ Is not licensed and has not been licensed in another state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or and

~~2. Has completed such continuing education courses as the board deems appropriate, within the limits for each applicable 2-year period as set forth in s. 473.312, but at least such courses as are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement; or~~

(b) ~~1.a.~~ 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 were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

2.b. Holds a valid license to practice public accounting

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issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of sub-subparagraph a.; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

~~3.e.~~ Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character; ~~and~~

~~2. Has completed continuing education courses that are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement.~~

Section 24. Subsection (6) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(6) "Limited-service veterinary medical practice" means offering or providing veterinary services at any location that has a primary purpose other than that of providing veterinary medical service at a permanent or mobile establishment permitted by the board; provides veterinary medical services for privately owned animals that do not reside at that location; operates for a limited time; and provides limited types of veterinary medical

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services, including vaccinations or immunizations against disease, preventative procedures for parasitic control, and microchipping.

Section 25. Paragraph (b) of subsection (2) of section 474.207, Florida Statutes, is amended to read:

474.207 Licensure by examination.—

(2) The department shall license each applicant who the board certifies has:

(b)1. Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education; or

2. Graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates or the Program for the Assessment of Veterinary Education Equivalence.

The department shall not issue a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 26. Subsection (1) of section 474.217, Florida Statutes, is amended to read:

474.217 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board, demonstrates to the board that she or

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523 he:

524 (a) Has demonstrated, in a manner designated by rule of the  
525 board, knowledge of the laws and rules governing the practice of  
526 veterinary medicine in this state; and

527 (b)1. ~~Either~~ Holds, and has held for the 3 years  
528 immediately preceding the application for licensure, a valid,  
529 active license to practice veterinary medicine in another state  
530 of the United States, the District of Columbia, or a territory  
531 of the United States, provided that the applicant has  
532 successfully completed a state, regional, national, or other  
533 examination that is equivalent to or more stringent than the  
534 examination required by the board requirements for licensure in  
535 the issuing state, district, or territory are equivalent to or  
536 more stringent than the requirements of this chapter; or

537 2. Meets the qualifications of s. 474.207(2) (b) and has  
538 successfully completed a state, regional, national, or other  
539 examination which is equivalent to or more stringent than the  
540 examination given by the department and has passed the board's  
541 clinical competency examination or another clinical competency  
542 examination specified by rule of the board.

543 Section 27. Subsection (2) of section 476.114, Florida  
544 Statutes, is amended to read:

545 476.114 Examination; prerequisites.—

546 (2) An applicant shall be eligible for licensure by  
547 examination to practice barbering if the applicant:

548 (a) Is at least 16 years of age; and

549 (b) Pays the required application fee; and

550 (c)1. Holds an active valid license to practice barbering  
551 in another state, has held the license for at least 1 year, and

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552 does not qualify for licensure by endorsement as provided for in  
553 s. 476.144(5); or

554 2. Has received a minimum of ~~900~~ 1,200 hours of training in  
555 sanitation, safety, and laws and rules, as established by the  
556 board, which shall include, but shall not be limited to, the  
557 equivalent of completion of services directly related to the  
558 practice of barbering at one of the following:

- 559 a. A school of barbering licensed pursuant to chapter 1005;
- 560 b. A barbering program within the public school system; or
- 561 c. A government-operated barbering program in this state.

562  
563 The board shall establish by rule procedures whereby the school  
564 or program may certify that a person is qualified to take the  
565 required examination after the completion of a minimum of 600  
566 ~~1,000~~ actual school hours. If the person passes the examination,  
567 she or he shall have satisfied this requirement; but if the  
568 person fails the examination, she or he shall not be qualified  
569 to take the examination again until the completion of the full  
570 requirements provided by this section.

571 Section 28. Subsection (5) of section 476.144, Florida  
572 Statutes, is amended to read:

573 476.144 Licensure.—

574 (5) The board shall certify as qualified for licensure by  
575 endorsement as a barber in this state an applicant who holds a  
576 current active license to practice barbering in another state.  
577 The board shall adopt rules specifying procedures for the  
578 licensure by endorsement of practitioners desiring to be  
579 licensed in this state who hold a current active license in  
580 another ~~state or~~ country and who have met qualifications



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581 substantially similar to, equivalent to, or greater than the  
 582 qualifications required of applicants from this state.

583 Section 29. Subsection (9) of section 477.013, Florida  
 584 Statutes, is amended to read:

585 477.013 Definitions.—As used in this chapter:

586 (9) "Hair braiding" means the weaving or interweaving of  
 587 natural human hair or commercial hair, including the use of hair  
 588 extensions or wefts, for compensation without cutting, coloring,  
 589 permanent waving, relaxing, removing, or chemical treatment ~~and~~  
 590 ~~does not include the use of hair extensions or wefts.~~

591 Section 30. Section 477.0132, Florida Statutes, is  
 592 repealed.

593 Section 31. Subsections (7) through (10) are added to  
 594 section 477.0135, Florida Statutes, to read:

595 477.0135 Exemptions.—

596 (7) A license or registration is not required for a person  
 597 whose occupation or practice is confined solely to hair braiding  
 598 as defined in s. 477.013(9).

599 (8) A license or registration is not required for a person  
 600 whose occupation or practice is confined solely to hair wrapping  
 601 as defined in s. 477.013(10).

602 (9) A license or registration is not required for a person  
 603 whose occupation or practice is confined solely to body wrapping  
 604 as defined in s. 477.013(12).

605 (10) A license or registration is not required for a person  
 606 whose occupation or practice is confined solely to applying  
 607 polish to fingernails and toenails.

608 Section 32. Subsections (6) and (7) of section 477.019,  
 609 Florida Statutes, are amended to read:

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610 477.019 Cosmetologists; qualifications; licensure;  
 611 supervised practice; license renewal; endorsement; continuing  
 612 education.—

613 (6) The board shall certify as qualified for licensure by  
 614 endorsement as a cosmetologist in this state an applicant who  
 615 holds a current active license to practice cosmetology in  
 616 another state and who has completed a 2-hour course approved by  
 617 the board on human immunodeficiency virus and acquired immune  
 618 deficiency syndrome. ~~The board may not require proof of~~  
 619 ~~educational hours if the license was issued in a state that~~  
 620 ~~requires 1,200 or more hours of prelicensure education and~~  
 621 ~~passage of a written examination. This subsection does not apply~~  
 622 ~~to applicants who received their license in another state~~  
 623 ~~through an apprenticeship program.~~

624 (7) (a) The board shall prescribe by rule continuing  
 625 education requirements intended to ensure protection of the  
 626 public through updated training of licensees and registered  
 627 specialists, not to exceed 10 ~~16~~ hours biennially, as a  
 628 condition for renewal of a license or registration as a  
 629 specialist under this chapter. Continuing education courses  
 630 shall include, but not be limited to, the following subjects as  
 631 they relate to the practice of cosmetology: human  
 632 immunodeficiency virus and acquired immune deficiency syndrome;  
 633 Occupational Safety and Health Administration regulations;  
 634 workers' compensation issues; state and federal laws and rules  
 635 as they pertain to cosmetologists, cosmetology, salons,  
 636 specialists, specialty salons, and booth renters; chemical  
 637 makeup as it pertains to hair, skin, and nails; and  
 638 environmental issues. Courses given at cosmetology conferences

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may be counted toward the number of continuing education hours required if approved by the board.

(b) ~~Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.~~

~~(e)~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 33. Subsection (1) of section 477.0201, Florida Statutes, is amended to read:

477.0201 Specialty registration; qualifications; registration renewal; endorsement.—

(1) Any person is qualified for registration as a specialist in any ~~one or more of the~~ specialty practice ~~practices~~ within the practice of cosmetology under this chapter who:

(a) Is at least 16 years of age or has received a high school diploma.

(b) Has received a certificate of completion ~~for: in a~~ 1. One hundred and eighty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice specialties as defined in s. 477.013(6)(a) and (b); specialty pursuant to s. 477.013(6)

2. Two hundred and twenty hours of training, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialty as defined in s.

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477.013(6)(c); or

3. Four hundred hours of training or the number of hours of training required to maintain minimum Pell Grant requirements, as established by the board, which shall focus primarily on sanitation and safety, to practice the specialties as defined in s. 477.013(6)(a)-(c).

(c) The certificate of completion specified in paragraph (b) must be from one of the following:

1. A school licensed pursuant to s. 477.023.

2. A school licensed pursuant to chapter 1005 or the equivalent licensing authority of another state.

3. A specialty program within the public school system.

4. A specialty division within the Cosmetology Division of the Florida School for the Deaf and the Blind, provided the training programs comply with minimum curriculum requirements established by the board.

Section 34. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

~~(f) For hair braiders, hair wrappers, and body wrappers, fees for registration shall not exceed \$25.~~

Section 35. Subsection (4) of section 477.0263, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

477.0263 Cosmetology services to be performed in licensed salon; exceptions.—

(4) Pursuant to rules adopted by the board, any cosmetology

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or specialty service may be performed in a location other than a licensed salon when the service is performed in connection with a special event and is performed by a person ~~who is employed by a licensed salon and~~ who holds the proper license or specialty registration. ~~An appointment for the performance of any such service in a location other than a licensed salon must be made through a licensed salon.~~

(5) Hair shampooing, hair cutting, hair arranging, nail polish removal, nail filing, nail buffing, and nail cleansing may be performed in a location other than a licensed salon when the service is performed by a person who holds the proper license.

Section 36. Paragraph (f) of subsection (1) of section 477.0265, Florida Statutes, is amended to read:

477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(f) Advertise or imply that skin care services ~~or body wrapping~~, as performed under this chapter, have any relationship to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 37. Paragraph (a) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist ~~or specialist, hair wrapper, hair braider, or body wrapper~~ unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 38. Section 481.201, Florida Statutes, is amended

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to read:

481.201 Purpose.—The primary legislative purpose for enacting this part is to ensure that every architect practicing in this state meets minimum requirements for safe practice. It is the legislative intent that architects who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. ~~The Legislature further finds that it is in the interest of the public to limit the practice of interior design to interior designers or architects who have the design education and training required by this part or to persons who are exempted from the provisions of this part.~~

Section 39. Section 481.203, Florida Statutes, is amended to read:

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

(3)(1) "Board" means the Board of Architecture and Interior Design.

(7)(2) "Department" means the Department of Business and Professional Regulation.

(1)(3) "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

(5)(4) "Certificate of registration" means a license or registration issued by the department to a natural person to engage in the practice of architecture or interior design.

(4)(5) "Business organization" means a partnership, a limited liability company, a corporation, or an individual operating under a fictitious name ~~"Certificate of authorization"~~ means ~~a certificate issued by the department to a corporation or~~

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~~partnership to practice architecture or interior design.~~

~~(2)(6)~~ "Architecture" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

~~(16)(7)~~ "Townhouse" is a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed

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and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

~~(10)(9)~~ "Interior design" means designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

~~(11)(9)~~ "Registered interior designer" ~~or "interior designer"~~ means a natural person who holds a valid certificate of registration to practice interior design ~~is licensed under this part.~~

~~(12)(10)~~ "Nonstructural element" means an element which does not require structural bracing and which is something other

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than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.

~~(13)-(11)~~ "Reflected ceiling plan" means a ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

~~(15)-(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

~~(6)-(13)~~ "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.

~~(8)-(14)~~ "Diversified interior design experience" means experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection ~~(10)-(8)~~.

~~(9)-(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

~~(14)-(16)~~ "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

Section 40. Paragraph (a) of subsection (3) of section

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481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3) (a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed or registered under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or restriction of a license or certificate of registration pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture or registered and interior design; and to investigate and deter the unlicensed practice of architecture ~~and interior design~~ as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

Section 41. Section 481.207, Florida Statutes, is amended to read:

481.207 Fees.—

(1) The board, by rule, may establish ~~separate~~ fees for architects ~~and interior designers~~, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the

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871 examination. The application fee is nonrefundable. The fee for  
 872 initial application and examination for architects ~~and interior~~  
 873 ~~designers~~ may not exceed \$775 plus the actual per applicant cost  
 874 to the department for purchase of the examination from the  
 875 National Council of Architectural Registration Boards ~~or the~~  
 876 ~~National Council of Interior Design Qualifications,~~  
 877 ~~respectively,~~ or similar national organizations. The biennial  
 878 renewal fee for architects may not exceed \$200. ~~The biennial~~  
 879 ~~renewal fee for interior designers may not exceed \$500.~~ The  
 880 delinquency fee may not exceed the biennial renewal fee  
 881 established by the board for an active license. The board shall  
 882 establish fees that are adequate to ensure the continued  
 883 operation of the board and to fund the proportionate expenses  
 884 incurred by the department which are allocated to the regulation  
 885 of architects and registered interior designers. Fees shall be  
 886 based on department estimates of the revenue required to  
 887 implement this part and the provisions of law with respect to  
 888 the regulation of architects and interior designers.

889 (2) The board may establish a fee for certificates of  
 890 registration for interior designers. Such fee, if established,  
 891 is not refundable and may not exceed \$75. A certificate of  
 892 registration is valid for 2 years and a registered interior  
 893 designer may renew the registration. The biennial renewal fee  
 894 may not exceed \$75.

895 Section 42. Section 481.209, Florida Statutes, is amended  
 896 to read:

897 481.209 Examinations.—

898 (1) A person desiring to be licensed as a registered  
 899 architect by initial examination shall apply to the department,

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900 complete the application form, and remit a nonrefundable  
 901 application fee. The department shall license any applicant who  
 902 the board certifies+.

903 ~~(a)~~ has passed the licensure examination prescribed by  
 904 board rule+ and

905 ~~(b)~~ is a graduate of a school or college of architecture  
 906 with a program accredited by the National Architectural  
 907 Accreditation Board.

908 (2) A person seeking to obtain a certificate of  
 909 registration as a registered interior designer and a seal  
 910 pursuant to s. 481.221 must provide the department with his or  
 911 her name and address and written proof that he or she has  
 912 successfully passed the qualification examination prescribed by  
 913 the Council for Interior Design Qualification or its successor  
 914 entity or the California Council for Interior Design  
 915 Certification or its successor entity, or has successfully  
 916 passed an equivalent exam as determined by the department A  
 917 ~~person desiring to be licensed as a registered interior designer~~  
 918 ~~shall apply to the department for licensure. The department~~  
 919 ~~shall administer the licensure examination for interior~~  
 920 ~~designers to each applicant who has completed the application~~  
 921 ~~form and remitted the application and examination fees specified~~  
 922 ~~in s. 481.207 and who the board certifies+.~~

923 ~~(a) Is a graduate from an interior design program of 5~~  
 924 ~~years or more and has completed 1 year of diversified interior~~  
 925 ~~design experience+.~~

926 ~~(b) Is a graduate from an interior design program of 4~~  
 927 ~~years or more and has completed 2 years of diversified interior~~  
 928 ~~design experience+.~~

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~~(e) Has completed at least 3 years in an interior design curriculum and has completed 3 years of diversified interior design experience; or~~

~~(d) Is a graduate from an interior design program of at least 2 years and has completed 4 years of diversified interior design experience.~~

~~Subsequent to October 1, 2000, for the purpose of having the educational qualification required under this subsection accepted by the board, the applicant must complete his or her education at a program, school, or college of interior design whose curriculum has been approved by the board as of the time of completion. Subsequent to October 1, 2003, all of the required amount of educational credits shall have been obtained in a program, school, or college of interior design whose curriculum has been approved by the board, as of the time each educational credit is gained. The board shall adopt rules providing for the review and approval of programs, schools, and colleges of interior design and courses of interior design study based on a review and inspection by the board of the curriculum of programs, schools, and colleges of interior design in the United States, including those programs, schools, and colleges accredited by the Foundation for Interior Design Education Research. The board shall adopt rules providing for the review and approval of diversified interior design experience required by this subsection.~~

Section 43. Section 481.213, Florida Statutes, is amended to read:

481.213 Licensure and registration.—

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(1) The department shall license or register any applicant who the board certifies is qualified for licensure or registration and who has paid the initial licensure or registration fee. Licensure as an architect under this section shall be deemed to include all the rights and privileges of registration ~~licensure~~ as an interior designer under this section.

(2) The board shall certify for licensure or registration by examination any applicant who passes the prescribed licensure or registration examination and satisfies the requirements of ss. 481.209 and 481.211, for architects, or the requirements of s. 481.209, for interior designers.

(3) The board shall certify as qualified for a license by endorsement as an architect or registration as a registered ~~an~~ interior designer an applicant who:

(a) Qualifies to take the prescribed licensure or registration examination, and has passed the prescribed licensure registration examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209 for architects or registered interior designers, as applicable, and has satisfied the internship requirements set forth in s. 481.211 for architects;

(b) Holds a valid license to practice architecture or a license, registration, or certification to practice interior design issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; ~~provided, however, that an applicant who has been licensed for use of the title "interior~~

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design" rather than licensed to practice interior design shall  
not qualify hereunder; or

(c) Has passed the prescribed licensure examination and  
holds a valid certificate issued by the National Council of  
Architectural Registration Boards, and holds a valid license to  
practice architecture issued by another state or jurisdiction of  
the United States.

An architect who is licensed in another state who seeks  
qualification for license by endorsement under this subsection  
must complete a class approved by the board on the Florida  
Building Code.

(4) The board may refuse to certify any applicant who has  
violated any of the provisions of s. 481.223, s. 481.225, or s.  
481.2251, as applicable.

(5) The board may refuse to certify any applicant who is  
under investigation in any jurisdiction for any act which would  
constitute a violation of this part or of chapter 455 until such  
time as the investigation is complete and disciplinary  
proceedings have been terminated.

(6) The board shall adopt rules to implement the provisions  
of this part relating to the examination, internship, and  
licensure of applicants.

(7) For persons whose licensure requires satisfaction of  
the requirements of ss. 481.209 and 481.211, the board shall, by  
rule, establish qualifications for certification of such persons  
as special inspectors of threshold buildings, as defined in ss.  
553.71 and 553.79, and shall compile a list of persons who are  
certified. A special inspector is not required to meet standards

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for certification other than those established by the board, and  
the fee owner of a threshold building may not be prohibited from  
selecting any person certified by the board to be a special  
inspector. The board shall develop minimum qualifications for  
the qualified representative of the special inspector who is  
authorized under s. 553.79 to perform inspections of threshold  
buildings on behalf of the special inspector.

(8) A certificate of registration is not required for a  
person whose occupation or practice is confined to interior  
decorator services or for a person whose occupation or practice  
is confined to interior design except as required in this part.

Section 44. Subsection (1) of section 481.2131, Florida  
Statutes, is amended to read:

481.2131 Interior design; practice requirements; disclosure  
of compensation for professional services.—

(1) A registered interior designer is authorized to perform  
"interior design" as defined in s. 481.203. Interior design  
documents prepared by a registered interior designer shall  
contain a statement that the document is not an architectural or  
engineering study, drawing, specification, or design and is not  
to be used for construction of any load-bearing columns, load-  
bearing framing or walls of structures, or issuance of any  
building permit, except as otherwise provided by law. Interior  
design documents that are prepared and sealed by a registered  
interior designer must ~~may~~, if required by a permitting body, be  
accepted by the permitting body ~~be submitted~~ for the issuance of  
a building permit for interior construction excluding design of  
any structural, mechanical, plumbing, heating, air-conditioning,  
ventilating, electrical, or vertical transportation systems or



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that materially affect lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems. Interior design documents submitted for the issuance of a building permit by an individual performing interior design services who is not a licensed architect must include a seal issued by the department and in conformance with the requirements of s. 481.221.

Section 45. Section 481.215, Florida Statutes, is amended to read:

481.215 Renewal of license or certificate of registration.—

(1) Subject to the requirement of subsection (3), the department shall renew a license or certificate of registration upon receipt of the renewal application and renewal fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificate of registrations.

(3) A ~~No~~ license or certificate of registration renewal may not shall be issued to an architect or a registered ~~an~~ interior designer by the department until the licensee or registrant submits proof satisfactory to the department that, during the 2 years before ~~prior to~~ application for renewal, the licensee or registrant participated per biennium in not less than 20 hours of at least 50 minutes each per biennium of continuing education approved by the board. The board shall approve only continuing education that builds upon the basic knowledge of architecture or interior design. The board may make exception from the

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requirements of continuing education in emergency or hardship cases.

(4) The board shall by rule establish criteria for the approval of continuing education courses and providers and shall by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

~~(5) The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV of chapter 553, relating to the licensee's respective area of practice.~~

Section 46. Section 481.217, Florida Statutes, is amended to read:

481.217 Inactive status.—

(1) The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The rules may not require more than one renewal cycle of continuing education to reactivate a license or registration for a registered architect or registered interior designer. ~~For interior design, the board may approve only continuing education that builds upon the basic knowledge of interior design.~~

(2) The board shall adopt rules relating to application procedures for inactive status and for the reactivation of inactive licenses and registrations.

Section 47. Section 481.219, Florida Statutes, is amended to read:

481.219 Qualification of business organizations ~~certification of partnerships, limited liability companies, and~~

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corporations.-

(1) ~~A licensee may The practice of or the offer to practice architecture or interior design by licensees through a qualified business organization that offers corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of this section.~~

(2) If a licensee or an applicant proposes to engage in the practice of architecture as a business organization, the licensee or applicant shall qualify the business organization upon approval of the board For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person practicing under a fictitious name, offering architectural services to the public jointly or separately. However, when an individual is practicing architecture in her or his own name, she or he shall not be required to be certified under this section. Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services.

(3) (a) A business organization may not engage in the practice of architecture unless its qualifying agent is a registered architect under this part. A qualifying agent who terminates an affiliation with a qualified business organization shall immediately notify the department of such termination. If

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such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of architecture until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization, the executive director or the chair of the board may authorize another registered architect employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent who has ceased employment.

(c) A qualifying agent shall notify the department in writing before engaging in the practice of architecture in her or his own name or in affiliation with a different business organization, and she or he or such business organization shall supply the same information to the department as required of applicants under this part.

~~(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person operating under a fictitious name, offering interior design services to the public jointly or separately. However, when an individual is practicing interior design in her or his own name, she or he shall not be required to be certified under this section.~~

(4) All final construction documents and instruments of service which include drawings, specifications, plans, reports,

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or other papers or documents that involve ~~involving~~ the practice of architecture which are prepared or approved for the use of the business organization corporation, limited liability company, or partnership and filed for public record within the state ~~must~~ shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.

(5) ~~All drawings, specifications, plans, reports, or other papers or documents prepared or approved for the use of the corporation, limited liability company, or partnership by an interior designer in her or his professional capacity and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.~~

~~(6) The department shall issue a certificate of authorization to any applicant who the board certifies as qualified for a certificate of authorization and who has paid the fee set in s. 481.207.~~

~~(7) The board shall allow a licensee or certify an applicant to qualify one or more business organizations as qualified for a certificate of authorization to offer architectural or interior design services, or to use a fictitious name to offer such services, if provided that:~~

~~(a) one or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as architects, are registered as provided by this part; or~~

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~~(b) One or more of the principal officers of the corporation or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as interior designers, are registered as provided by this part.~~

~~(8) The department shall adopt rules establishing a procedure for the biennial renewal of certificates of authorization.~~

~~(9) The department shall renew a certificate of authorization upon receipt of the renewal application and biennial renewal fee.~~

(6)(10) Each qualifying agent who qualifies a business organization, partnership, limited liability company, or corporation certified under this section shall notify the department within 30 days after of any change in the information contained in the application upon which the qualification certification is based. Any registered architect or interior designer who qualifies the business organization shall ensure corporation, limited liability company, or partnership as provided in subsection (7) shall be responsible for ensuring responsible supervising control of projects of the business organization entity and shall notify the department of the upon termination of her or his employment with a business organization qualified partnership, limited liability company, or corporation certified under this section shall notify the department of the termination within 30 days after such termination.

(7)(11) A business organization is not ~~No corporation, limited liability company, or partnership shall be relieved of~~

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responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, except as provided in s. 558.0035, the architect who signs and seals the construction documents and instruments of service ~~is shall be~~ liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

~~(12) Disciplinary action against a corporation, limited liability company, or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered architect or interior designer, respectively.~~

~~(8)(13) Nothing in This section may not shall be construed to mean that a certificate of registration to practice architecture must or interior design shall be held by a business organization corporation, limited liability company, or partnership. Nothing in This section does not prohibit a business organization from offering prohibits corporations, limited liability companies, and partnerships from joining together to offer architectural, engineering, interior design, surveying and mapping, and landscape architectural services, or any combination of such services, to the public if the business organization, provided that each corporation, limited liability company, or partnership otherwise meets the requirements of law.~~

~~(14) Corporations, limited liability companies, or partnerships holding a valid certificate of authorization to practice architecture shall be permitted to use in their title the term "interior designer" or "registered interior designer."~~

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Section 48. Subsections (1), (3), (5), (7), (10), (11), and (12) of section 481.221, Florida Statutes, are amended to read: 481.221 Seals; display of certificate number.—

(1) The department board ~~board~~ shall prescribe, by rule, one or more forms of seals to be used by registered architects holding valid certificates of registration.

(3) The department board ~~board~~ shall adopt a rule prescribing the distinctly different seals to be used by registered interior designers holding valid certificates of registration. Each registered interior designer shall obtain a seal as prescribed by the department board, and all drawings, plans, specifications, or reports prepared or issued by the registered interior designer and being filed for public record shall bear the signature and seal of the registered interior designer who prepared or approved the document and the date on which they were sealed. The signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Final plans, specifications, or reports prepared or issued by a registered interior designer may be transmitted electronically and may be signed by the registered interior designer, dated, and sealed electronically with the seal in accordance with ss. 668.001-668.006.

(5) No registered interior designer shall affix, or permit to be affixed, her or his seal or signature to any plan, specification, drawing, or other document which depicts work which she or he is not competent or registered licensed to perform.

(7) No registered interior designer shall affix her or his signature or seal to any plans, specifications, or other

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documents which were not prepared by her or him or under her or his responsible supervising control or by another registered interior designer and reviewed, approved, or modified and adopted by her or him as her or his own work according to rules adopted by the department board.

(10) Each registered architect ~~must or interior designer, and each corporation, limited liability company, or partnership holding a certificate of authorization, shall include her or his~~ license its certificate number in any newspaper, telephone directory, or other advertising medium used by the registered licensee. Each business organization must include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the business organization architect, interior designer, corporation, limited liability company, or partnership. A corporation, limited liability company, or partnership is not required to display the certificate number of individual registered architects or interior designers employed by or working within the corporation, limited liability company, or partnership.

(11) When the certificate of registration of a registered architect ~~or interior designer~~ has been revoked or suspended by the board, the registered architect ~~or interior designer~~ shall surrender her or his seal to the secretary of the board within a period of 30 days after the revocation or suspension has become effective. If the certificate of the registered architect ~~or interior designer~~ has been suspended for a period of time, her or his seal shall be returned to her or him upon expiration of the suspension period.

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(12) A person may not sign and seal by any means any final plan, specification, or report after her or his certificate of registration has expired or is suspended or revoked. A registered architect ~~or interior designer~~ whose certificate of registration is suspended or revoked shall, within 30 days after the effective date of the suspension or revocation, surrender her or his seal to the executive director of the board and confirm in writing to the executive director the cancellation of the registered architect's ~~or interior designer's~~ electronic signature in accordance with ss. 668.001-668.006. When a registered architect's ~~or interior designer's~~ certificate of registration is suspended for a period of time, her or his seal shall be returned upon expiration of the period of suspension.

Section 49. Section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties; injunctive relief.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect; however, a licensed architect who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Architect, Retired" but may not otherwise render any architectural services.

~~(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein; however, an interior designer who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any interior design services.~~

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1335 ~~(b)(e)~~ Use the name or title "architect," ~~or~~ "registered

1336 architect," or ~~"interior designer" or "registered interior~~

1337 ~~designer," or words to that effect,~~ when the person is not then

1338 the holder of a valid license or certificate of registration

1339 issued pursuant to this part. This paragraph does not restrict

1340 the use of the name or title "interior designer" or "interior

1341 design firm."

1342 ~~(c)(d)~~ Present as his or her own the license of another.

1343 ~~(d)(e)~~ Give false or forged evidence to the board or a

1344 member thereof.

1345 ~~(e)(f)~~ Use or attempt to use an architect ~~or interior~~

1346 ~~designer~~ license or interior design certificate of registration

1347 that has been suspended, revoked, or placed on inactive or

1348 delinquent status.

1349 ~~(f)(g)~~ Employ unlicensed persons to practice architecture

1350 ~~or interior design.~~

1351 ~~(g)(h)~~ Conceal information relative to violations of this

1352 part.

1353 (2) Any person who violates any provision of subsection (1)

1354 commits a misdemeanor of the first degree, punishable as

1355 provided in s. 775.082 or s. 775.083.

1356 (3) (a) Notwithstanding chapter 455 or any other law to the

1357 contrary, an affected person may maintain an action for

1358 injunctive relief to restrain or prevent a person from violating

1359 paragraph (1) (a) or, paragraph (1) (b), ~~or paragraph (1) (c).~~ The

1360 prevailing party is entitled to actual costs and attorney's

1361 fees.

1362 (b) For purposes of this subsection, the term "affected

1363 person" means a person directly affected by the actions of a

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1364 person suspected of violating paragraph (1) (a) or, paragraph

1365 (1) (b), ~~or paragraph (1) (c)~~ and includes, but is not limited to,

1366 the department, any person who received services from the

1367 alleged violator, or any private association composed primarily

1368 of members of the profession the alleged violator is practicing

1369 or offering to practice or holding himself or herself out as

1370 qualified to practice.

1371 Section 50. Section 481.2251, Florida Statutes, is amended

1372 to read:

1373 481.2251 Disciplinary proceedings against registered

1374 interior designers.—

1375 (1) The following acts constitute grounds for which the

1376 disciplinary actions specified in subsection (2) may be taken:

1377 (a) Attempting to register ~~obtain, obtaining,~~ or renewing

1378 registration, by bribery, by fraudulent misrepresentation, or

1379 through an error of the board, ~~a license to practice interior~~

1380 ~~design;~~

1381 (b) Having an interior design license, certification, or

1382 registration ~~a license to practice interior design~~ revoked,

1383 suspended, or otherwise acted against, including the denial of

1384 licensure, registration, or certification by the licensing

1385 authority of another jurisdiction for any act which would

1386 constitute a violation of this part or of chapter 455;

1387 (c) Being convicted or found guilty, ~~regardless of~~

1388 ~~adjudication,~~ of a crime in any jurisdiction which directly

1389 relates to the provision of interior design services or to the

1390 ability to provide interior design services. ~~A plea of nolo~~

1391 ~~contendere shall create a rebuttable presumption of guilt to the~~

1392 ~~underlying criminal charges. However, the board shall allow the~~

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1393 person being disciplined to present any evidence relevant to the  
 1394 underlying charges and the circumstances surrounding her or his  
 1395 plea;

1396 (d) False, deceptive, or misleading advertising;

1397 (e) ~~Failing to report to the board any person who the~~  
 1398 ~~licensee knows is in violation of this part or the rules of the~~  
 1399 ~~board;~~

1400 ~~(f) Aiding, assisting, procuring, or advising any~~  
 1401 ~~unlicensed person to use the title "interior designer" contrary~~  
 1402 ~~to this part or to a rule of the board;~~

1403 ~~(g) Failing to perform any statutory or legal obligation~~  
 1404 ~~placed upon a registered interior designer;~~

1405 ~~(h) Making or filing a report which the registrant licensee~~  
 1406 ~~knows to be false, intentionally or negligently failing to file~~  
 1407 ~~a report or record required by state or federal law, or~~  
 1408 ~~willfully impeding or obstructing such filing or inducing~~  
 1409 ~~another person to do so. Such reports or records shall include~~  
 1410 ~~only those which are signed in the capacity as a registered~~  
 1411 ~~interior designer;~~

1412 ~~(f) ~~(i)~~~~ Making deceptive, untrue, or fraudulent  
 1413 representations in the provision of interior design services;

1414 ~~(g) ~~(j)~~~~ Accepting and performing professional  
 1415 responsibilities which the registrant licensee knows or has  
 1416 reason to know that she or he is not competent ~~or licensed to~~  
 1417 ~~perform;~~

1418 ~~(k) Violating any provision of this part, any rule of the~~  
 1419 ~~board, or a lawful order of the board previously entered in a~~  
 1420 ~~disciplinary hearing;~~

1421 ~~(l) Conspiring with another licensee or with any other~~

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1422 person to commit an act, or committing an act, which would tend  
 1423 to coerce, intimidate, or preclude another licensee from  
 1424 lawfully advertising her or his services;

1425 ~~(m) Acceptance of compensation or any consideration by an~~  
 1426 ~~interior designer from someone other than the client without~~  
 1427 ~~full disclosure of the compensation or consideration amount or~~  
 1428 ~~value to the client prior to the engagement for services, in~~  
 1429 ~~violation of s. 481.2131(2);~~

1430 ~~(h) ~~(n)~~~~ Rendering or offering to render architectural  
 1431 services; or

1432 ~~(i) ~~(o)~~~~ Committing an act of fraud or deceit, or of  
 1433 negligence, incompetency, or misconduct, in the practice of  
 1434 interior design, including, but not limited to, allowing the  
 1435 preparation of any interior design studies, plans, or other  
 1436 instruments of service in an office that does not have a full-  
 1437 time Florida-registered interior designer assigned to such  
 1438 office or failing to exercise responsible supervisory control  
 1439 over services or projects, as required by board rule.

1440 (2) When the board finds any person guilty of any of the  
 1441 grounds set forth in subsection (1), it may enter an order  
 1442 taking the following action or imposing one or more of the  
 1443 following penalties:

1444 (a) Refusal to register the applicant ~~approve an~~  
 1445 ~~application for licensure;~~

1446 (b) Refusal to renew an existing registration license;

1447 (c) Removal from the state registry ~~Revocation or~~  
 1448 ~~suspension of a license; or~~

1449 (d) Imposition of an administrative fine not to exceed \$500  
 1450 \$1,000 for each violation or separate offense and a fine of up

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to \$2,500 ~~\$5,000~~ for matters pertaining to a material violation of the Florida Building Code as reported by a local jurisdiction; ~~or~~

~~(e) Issuance of a reprimand.~~

Section 51. Paragraph (b) of subsection (5), and subsections (6), and (8) of section 481.229, Florida Statutes, are amended to read:

481.229 Exceptions; exemptions from licensure.—

(5)

(b) Notwithstanding any other provision of this part, all persons licensed as architects under this part shall be qualified for interior design registration licensure upon submission of a completed application for such license and a fee not to exceed \$30. Such persons shall be exempt from the requirements of s. 481.209(2). For architects licensed as interior designers, satisfaction of the requirements for renewal of licensure as an architect under s. 481.215 shall be deemed to satisfy the requirements for renewal of registration licensure as an interior designer under that section. Complaint processing, investigation, or other discipline-related legal costs related to persons licensed as interior designers under this paragraph shall be assessed against the architects' account of the Regulatory Trust Fund.

(6) This part shall not apply to:

~~(a) A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent himself or herself as, an interior designer. For purposes of this paragraph, "residential applications" includes all types of~~

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~~residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. However, "residential applications" does not include common areas associated with instances of multiple-unit dwelling applications.~~

~~(b)~~ an employee of a retail establishment providing "interior decorator services" on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.

(8) A manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment is exempt from licensure as an architect ~~or interior designer~~, if:

(a) The designs, specifications, or layouts are not used for construction or installation that may affect structural, mechanical, plumbing, heating, air conditioning, ventilating, electrical, or vertical transportation systems.

(b) The designs, specifications, or layouts do not materially affect lifesafety systems pertaining to firesafety protection, smoke evacuation and compartmentalization, and emergency ingress or egress systems.

(c) Each design, specification, or layout document prepared by a person or entity exempt under this subsection contains a statement on each page of the document that the designs, specifications, or layouts are not architectural, ~~interior~~



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design, or engineering designs, specifications, or layouts and not used for construction unless reviewed and approved by a licensed architect or engineer.

Section 52. Subsection (1) of section 481.231, Florida Statutes, is amended to read:

481.231 Effect of part locally.—

(1) ~~Nothing in~~ This part does not ~~shall be construed to~~ repeal, amend, limit, or otherwise affect any specific provision of any local building code or zoning law or ordinance that has been duly adopted, now or hereafter enacted, which is more restrictive, with respect to the services of registered architects or registered interior designers, than ~~the provisions of~~ this part; provided, however, that a licensed architect shall be deemed registered ~~licensed~~ as an interior designer for purposes of offering or rendering interior design services to a county, municipality, or other local government or political subdivision.

Section 53. Section 481.303, Florida Statutes, is amended to read:

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

(1) "Board" means the Board of Landscape Architecture.

~~(3)(2)~~ "Department" means the Department of Business and Professional Regulation.

~~(6)(3)~~ "Registered landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this act.

~~(2)(4)~~ "Certificate of registration" means a license issued by the department to a natural person to engage in the practice of landscape architecture.

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~~(5) "Certificate of authorization" means a license issued by the department to a corporation or partnership to engage in the practice of landscape architecture.~~

~~(4)(6)~~ "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Florida-friendly landscaping as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

~~(5)(7)~~ "Landscape design" means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar

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materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

Section 54. Section 481.310, Florida Statutes, is amended to read:

481.310 Practical experience requirement.—Beginning October 1, 1990, every applicant for licensure as a registered landscape architect shall demonstrate, prior to licensure, 1 year of practical experience in landscape architectural work. An applicant who holds a master of landscape architecture degree and a bachelor's degree in a related field is not required to demonstrate 1 year of practical experience in landscape architectural work to obtain licensure. The board shall adopt rules providing standards for the required experience. An applicant who qualifies for examination pursuant to s. 481.309(1)(b)1. may obtain the practical experience after completing the required professional degree. Experience used to qualify for examination pursuant to s. 481.309(1)(b)2. may not be used to satisfy the practical experience requirement under this section.

Section 55. Subsections (3) and (4) of section 481.311, Florida Statutes, are amended, to read:

481.311 Licensure.—

(3) The board shall certify as qualified for a license by endorsement an applicant who+

~~(a) Qualifies to take the examination as set forth in s. 481.309; and has passed a national, regional, state, or~~

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~~territorial licensing examination which is substantially equivalent to the examination required by s. 481.309; or~~

~~(b) holds 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 this state at the time the license was issued.~~

~~(4) The board shall certify as qualified for a certificate of authorization any applicant corporation or partnership who satisfies the requirements of s. 481.319.~~

Section 56. Subsection (2) of section 481.317, Florida Statutes, is amended to read:

481.317 Temporary certificates.—

~~(2) Upon approval by the board and payment of the fee set in s. 481.307, the department shall grant a temporary certificate of authorization for work on one specified project in this state for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm, provided one of the principal officers of the corporation, one of the partners of the partnership, or one of the principals in the fictitiously named firm has obtained a temporary certificate of registration in accordance with subsection (1).~~

Section 57. Section 481.319, Florida Statutes, is amended to read:

481.319 Corporate and partnership practice of landscape architecture, ~~certificate of authorization.~~—

(1) The practice of or offer to practice landscape architecture by registered landscape architects registered under this part through a corporation or partnership offering

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landscape architectural services to the public, or through a corporation or partnership offering landscape architectural services to the public through individual registered landscape architects as agents, employees, officers, or partners, is permitted, subject to the provisions of this section, if:

(a) One or more of the principal officers of the corporation, or partners of the partnership, and all personnel of the corporation or partnership who act in its behalf as landscape architects in this state are registered landscape architects; and

(b) One or more of the officers, one or more of the directors, one or more of the owners of the corporation, or one or more of the partners of the partnership is a registered landscape architect; ~~and~~

~~(c) The corporation or partnership has been issued a certificate of authorization by the board as provided herein.~~

(2) All documents involving the practice of landscape architecture which are prepared for the use of the corporation or partnership shall bear the signature and seal of a registered landscape architect.

(3) A landscape architect applying to practice in the name of a ~~An applicant~~ corporation must ~~shall~~ file with the department the names and addresses of all officers and board members of the corporation, including the principal officer or officers, duly registered to practice landscape architecture in this state and, also, of all individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by the corporation in this state. A landscape architect applying to

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practice in the name of a ~~An applicant~~ partnership must ~~shall~~ file with the department the names and addresses of all partners of the partnership, including the partner or partners duly registered to practice landscape architecture in this state and, also, of an individual or individuals duly registered to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture by said partnership in this state.

(4) Each landscape architect qualifying a partnership or ~~and~~ corporation ~~licensed~~ under this part must ~~shall~~ notify the department within 1 month after ~~of~~ any change in the information contained in the application upon which the license is based. Any landscape architect who terminates her or his ~~or her~~ employment with a partnership or corporation licensed under this part shall notify the department of the termination within 1 month after such termination.

(5) ~~Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered landscape architect.~~

~~(6)~~ Except as provided in s. 558.0035, the fact that a registered landscape architect practices landscape architecture through a corporation or partnership as provided in this section does not relieve the landscape architect from personal liability for her or his ~~or her~~ professional acts.

Section 58. Subsection (5) of section 481.321, Florida Statutes, is amended to read:

481.321 Seals; display of certificate number.—

(5) Each registered landscape architect must ~~and each~~

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1683 ~~corporation or partnership holding a certificate of~~  
 1684 ~~authorization shall~~ include her or his ~~its~~ certificate number in  
 1685 any newspaper, telephone directory, or other advertising medium  
 1686 used by the registered landscape architect, corporation, or  
 1687 partnership. A corporation or partnership ~~must is not required~~  
 1688 ~~to~~ display the certificate number ~~numbers~~ of at least one  
 1689 officer, director, owner, or partner who is a individual  
 1690 registered landscape architect ~~architects~~ employed by or  
 1691 practicing with the corporation or partnership.

1692 Section 59. Subsection (5) of section 481.329, Florida  
 1693 Statutes, is amended to read:

1694 481.329 Exceptions; exemptions from licensure.—

1695 (5) This part does not prohibit any person from engaging in  
 1696 the practice of landscape design, as defined in s. 481.303 ~~s.~~  
 1697 ~~481.303(7)~~, or from submitting for approval to a governmental  
 1698 agency planting plans that are independent of, or a component  
 1699 of, construction documents that are prepared by a Florida-  
 1700 registered professional. Persons providing landscape design  
 1701 services shall not use the title, term, or designation  
 1702 "landscape architect," "landscape architectural," "landscape  
 1703 architecture," "L.A.," "landscape engineering," or any  
 1704 description tending to convey the impression that she or he is a  
 1705 landscape architect unless she or he is registered as provided  
 1706 in this part.

1707 Section 60. Subsection (9) of section 489.103, Florida  
 1708 Statutes, is amended to read:

1709 489.103 Exemptions.—This part does not apply to:

1710 (9) Any work or operation of a casual, minor, or  
 1711 inconsequential nature in which the aggregate contract price for

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1712 labor, materials, and all other items is less than \$2,500  
 1713 ~~\$1,000~~, but this exemption does not apply:

1714 (a) If the construction, repair, remodeling, or improvement  
 1715 is a part of a larger or major operation, whether undertaken by  
 1716 the same or a different contractor, or in which a division of  
 1717 the operation is made in contracts of amounts less than \$2,500  
 1718 ~~\$1,000~~ for the purpose of evading this part or otherwise.

1719 (b) To a person who advertises that he or she is a  
 1720 contractor or otherwise represents that he or she is qualified  
 1721 to engage in contracting.

1722 Section 61. Subsection (2) of section 489.111, Florida  
 1723 Statutes, is amended to read:

1724 489.111 Licensure by examination.—

1725 (2) A person shall be eligible for licensure by examination  
 1726 if the person:

1727 (a) Is 18 years of age;

1728 (b) Is of good moral character; and

1729 (c) Meets eligibility requirements according to one of the  
 1730 following criteria:

1731 1. Has received a baccalaureate degree from an accredited  
 1732 4-year college in the appropriate field of engineering,  
 1733 architecture, or building construction and has 1 year of proven  
 1734 experience in the category in which the person seeks to qualify.  
 1735 For the purpose of this part, a minimum of 2,000 person-hours  
 1736 shall be used in determining full-time equivalency.

1737 2. Has a total of at least 4 years of active experience as  
 1738 a worker who has learned the trade by serving an apprenticeship  
 1739 as a skilled worker who is able to command the rate of a  
 1740 mechanic in the particular trade or as a foreman who is in

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charge of a group of workers and usually is responsible to a superintendent or a contractor or his or her equivalent, provided, however, that at least 1 year of active experience shall be as a foreman.

3. Has a combination of not less than 1 year of experience as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled worker, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college-level courses; or has a combination of not less than 2 years of experience as a skilled worker, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. All junior college or community college-level courses shall be considered accredited college-level courses.

4.a. An active certified residential contractor is eligible to receive a certified building contractor license after passing or having previously passed ~~take~~ the building contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified residential contractor is eligible to receive a certified general contractor license after passing or having previously passed ~~take~~ the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified building contractor is eligible to receive a certified general contractor license after passing or

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having previously passed ~~take~~ the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

5.a. An active certified air-conditioning Class C contractor is eligible to receive a certified air-conditioning Class B contractor license after passing or having previously passed ~~take~~ the air-conditioning Class B contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified air-conditioning Class C contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified air-conditioning Class B contractor is eligible to receive a certified air-conditioning Class A contractor license after passing or having previously passed ~~take~~ the air-conditioning Class A contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

6.a. An active certified swimming pool servicing contractor is eligible to receive a certified residential swimming pool contractor license after passing or having previously passed ~~take~~ the residential swimming pool contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

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1799 b. An active certified swimming pool servicing contractor  
 1800 is eligible to receive a certified commercial swimming pool  
 1801 contractor license after passing or having previously passed  
 1802 ~~take~~ the swimming pool commercial contractors' examination if he  
 1803 or she possesses a minimum of 4 years of proven experience in  
 1804 the classification in which he or she is certified.

1805 c. An active certified residential swimming pool contractor  
 1806 is eligible to receive a certified commercial swimming pool  
 1807 contractor license after passing or having previously passed  
 1808 ~~take~~ the commercial swimming pool contractors' examination if he  
 1809 or she possesses a minimum of 1 year of proven experience in the  
 1810 classification in which he or she is certified.

1811 d. An applicant is eligible to receive a certified swimming  
 1812 pool/spa servicing contractor license after passing or having  
 1813 previously passed ~~take~~ the swimming pool/spa servicing  
 1814 contractors' examination if he or she has satisfactorily  
 1815 completed 60 hours of instruction in courses related to the  
 1816 scope of work covered by that license and approved by the  
 1817 Construction Industry Licensing Board by rule and has at least 1  
 1818 year of proven experience related to the scope of work of such a  
 1819 contractor.

1820 Section 62. Subsection (3) of section 489.115, Florida  
 1821 Statutes, is amended to read:

1822 489.115 Certification and registration; endorsement;  
 1823 reciprocity; renewals; continuing education.—

1824 (3) The board shall certify as qualified for certification  
 1825 by endorsement any applicant who:

1826 (a) Meets the requirements for certification as set forth  
 1827 in this section; has passed a national, regional, state, or

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1828 United States territorial licensing examination that is  
 1829 substantially equivalent to the examination required by this  
 1830 part; and has satisfied the requirements set forth in s.  
 1831 489.111;

1832 (b) Holds a valid license to practice contracting issued by  
 1833 another state or territory of the United States, if the criteria  
 1834 for issuance of such license were substantially equivalent to  
 1835 Florida's current certification criteria; ~~or~~

1836 (c) Holds a valid, current license to practice contracting  
 1837 issued by another state or territory of the United States, if  
 1838 the state or territory has entered into a reciprocal agreement  
 1839 with the board for the recognition of contractor licenses issued  
 1840 in that state, based on criteria for the issuance of such  
 1841 licenses that are substantially equivalent to the criteria for  
 1842 certification in this state; or

1843 (d) Has held a valid, current license to practice  
 1844 contracting issued by another state or territory of the United  
 1845 States for at least 10 years before the date of application and  
 1846 is applying for the same or similar license in this state,  
 1847 subject to subsections (5)-(9). The board may consider whether  
 1848 such applicant has had a license to practice contracting  
 1849 revoked, suspended, or otherwise acted against by the licensing  
 1850 authority of another state, territory, or country. Such  
 1851 application must be made either when the license in another  
 1852 state or territory is active or within 2 years after such  
 1853 license was last active.

1854 Section 63. Subsection (5) of section 489.511, Florida  
 1855 Statutes, is amended to read:

1856 489.511 Certification; application; examinations;

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endorsement.—

(5) The board shall certify as qualified for certification by endorsement any individual applying for certification who:

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.521; ~~or~~

(b) Holds a valid license to practice electrical or alarm system contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the certificate was issued; or

(c) Has held a valid, current license to practice electrical or alarm system contracting issued by another state or territory of the United States for at least 10 years before the date of application and is applying for the same or similar license in this state, subject to ss. 489.510 and 489.521(3)(a), and subparagraph (1)(b)1. Such application must be made either when the license in another state or territory is active or within 2 years after such license was last active.

Section 64. Subsection (3) and paragraph (b) of subsection (4) of section 489.517, Florida Statutes, are amended to read:

489.517 Renewal of certificate or registration; continuing education.—

(3) Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 11 ~~14~~

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classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(4)

(b) Of the 11 ~~14~~ classroom hours of continuing education required, at least 6 ~~7~~ hours must be 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.

Section 65. Paragraph (b) of subsection (1) of section 489.518, Florida Statutes, is amended to read:

489.518 Alarm system agents.—

(1) A licensed electrical or alarm system contractor may not employ a person to perform the duties of a burglar alarm system agent unless the person:

(b) Has successfully completed a minimum of 14 hours of training within 90 days after employment, to include basic alarm system electronics in addition to related training including CCTV and access control training, with at least 2 hours of training in the prevention of false alarms. Such training shall be from a board-approved provider, and the employee or applicant for employment shall provide proof of successful completion to the licensed employer. The board shall by rule establish criteria for the approval of training courses and providers and

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may by rule establish criteria for accepting alternative nonclassroom education on an hour-for-hour basis. The board shall approve providers that conduct training in other than the English language. The board shall establish a fee for the approval of training providers or courses, not to exceed \$60. Qualified employers may conduct training classes for their employees, with board approval.

Section 66. Section 509.102, Florida Statutes, is created to read:

509.102 Mobile food dispensing vehicles; preemption.-

(1) As used in this section, the term "mobile food dispensing vehicle" means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees and the regulation of the operation of mobile food dispensing vehicles is preempted to the state. A municipality, county, or other local government entity may not:

(a) Require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction;

(b) Prohibit mobile food dispensing vehicles from operating within the entity's jurisdiction.

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Section 67. Paragraph (i) of subsection (2) of section 548.003, Florida Statutes, is amended to read:

548.003 Florida State Boxing Commission.-

(2) The Florida State Boxing Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission, including, but not limited to:

~~(i) Designation and duties of a knockdown timekeeper.~~

Section 68. Subsection (1) of section 548.017, Florida Statutes, is amended to read:

548.017 Participants, managers, and other persons required to have licenses.-

(1) A participant, manager, trainer, second, ~~timekeeper~~, referee, judge, ~~announcer~~, physician, matchmaker, or promoter must be licensed before directly or indirectly acting in such capacity in connection with any match involving a participant. A physician approved by the commission must be licensed pursuant to chapter 458 or chapter 459, must maintain an unencumbered license in good standing, and must demonstrate satisfactory medical training or experience in boxing, or a combination of both, to the executive director before working as the ringside physician.

Section 69. Paragraph (d) of subsection (1) of section 553.5141, Florida Statutes, is amended to read:

553.5141 Certifications of conformity and remediation plans.-

(1) For purposes of this section:



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1973 (d) "Qualified expert" means:

1974 1. An engineer licensed pursuant to chapter 471.

1975 2. A certified general contractor licensed pursuant to

1976 chapter 489.

1977 3. A certified building contractor licensed pursuant to

1978 chapter 489.

1979 4. A building code administrator licensed pursuant to

1980 chapter 468.

1981 5. A building inspector licensed pursuant to chapter 468.

1982 6. A plans examiner licensed pursuant to chapter 468.

1983 7. An interior designer registered ~~licensed~~ pursuant to

1984 chapter 481.

1985 8. An architect licensed pursuant to chapter 481.

1986 9. A landscape architect licensed pursuant to chapter 481.

1987 10. Any person who has prepared a remediation plan related

1988 to a claim under Title III of the Americans with Disabilities

1989 Act, 42 U.S.C. s. 12182, that has been accepted by a federal

1990 court in a settlement agreement or court proceeding, or who has

1991 been qualified as an expert in Title III of the Americans with

1992 Disabilities Act, 42 U.S.C. s. 12182, by a federal court.

1993 Section 70. Effective January 1, 2021, subsection (1) of

1994 section 553.74, Florida Statutes, is amended to read:

1995 553.74 Florida Building Commission.—

1996 (1) The Florida Building Commission is created and located

1997 within the Department of Business and Professional Regulation

1998 for administrative purposes. Members are appointed by the

1999 Governor subject to confirmation by the Senate. The commission

2000 is composed of 19 ~~27~~ members, consisting of the following

2001 members:

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2002 (a) One architect licensed pursuant to chapter 481 with at

2003 least 5 years of experience in the design and construction of

2004 buildings designated for Group E or Group I occupancies by the

2005 Florida Building Code registered to practice in this state and

2006 ~~actively engaged in the profession~~. The American Institute of

2007 Architects, Florida Section, is encouraged to recommend a list

2008 of candidates for consideration.

2009 (b) One structural engineer registered to practice in this

2010 state and actively engaged in the profession. The Florida

2011 Engineering Society is encouraged to recommend a list of

2012 candidates for consideration.

2013 (c) One air-conditioning contractor, ~~or~~ mechanical

2014 contractor, or mechanical engineer certified to do business in

2015 this state and actively engaged in the profession. The Florida

2016 Air Conditioning Contractors Association, the Florida

2017 Refrigeration and Air Conditioning Contractors Association, ~~and~~

2018 the Mechanical Contractors Association of Florida, and the

2019 Florida Engineering Society are encouraged to recommend a list

2020 of candidates for consideration.

2021 (d) One electrical contractor or electrical engineer

2022 certified to do business in this state and actively engaged in

2023 the profession. The Florida Association of Electrical

2024 Contractors, ~~and~~ the National Electrical Contractors

2025 Association, Florida Chapter, and the Florida Engineering

2026 Society are encouraged to recommend a list of candidates for

2027 consideration.

2028 ~~(e) One member from fire protection engineering or~~

2029 ~~technology who is actively engaged in the profession. The~~

2030 ~~Florida Chapter of the Society of Fire Protection Engineers and~~

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~~the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.~~

~~(e)(f)~~ One certified general contractor ~~or one certified building contractor~~ certified to do business in this state and actively engaged in the profession. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, the Florida Home Builders Association, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration.

~~(f)(g)~~ One plumbing contractor licensed to do business in this state and actively engaged in the profession. The Florida Association of Plumbing, Heating, and Cooling Contractors is encouraged to recommend a list of candidates for consideration.

~~(g)(h)~~ One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession. The Florida Roofing, Sheet Metal, and Air Conditioning Contractors Association and the Sheet Metal and Air Conditioning Contractors' National Association are encouraged to recommend a list of candidates for consideration.

~~(h)(i)~~ One certified residential contractor licensed to do business in this state and actively engaged in the profession. The Florida Home Builders Association is encouraged to recommend a list of candidates for consideration.

~~(i)(j)~~ Three members who are municipal, county, or district codes enforcement officials, one of whom is also a fire official. The Building Officials Association of Florida and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

~~(k) One member who represents the Department of Financial~~

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~~Services.~~

~~(l) One member who is a county codes enforcement official. The Building Officials Association of Florida is encouraged to recommend a list of candidates for consideration.~~

~~(j)(m)~~ One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state which complies with or is certified to be compliant with the requirements of the Americans with Disability Act of 1990, as amended.

~~(k)(n)~~ One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry. The Florida Manufactured Housing Association is encouraged to recommend a list of candidates for consideration.

~~(e) One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.~~

~~(p) One member who is a representative of a municipality or a charter county. The Florida League of Cities and the Florida Association of Counties are encouraged to recommend a list of candidates for consideration.~~

~~(l)(q)~~ One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry. The Florida Building Material Association, the Florida Concrete and Products Association, and the Fenestration Manufacturers Association are encouraged to recommend a list of candidates for consideration.

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2089 ~~(m)(\*)~~ One member who is a representative of the building  
 2090 owners and managers industry who is actively engaged in  
 2091 commercial building ownership or management. The Building Owners  
 2092 and Managers Association is encouraged to recommend a list of  
 2093 candidates for consideration.

2094 ~~(n)(\*)~~ One member who is a representative of the insurance  
 2095 industry. The Florida Insurance Council is encouraged to  
 2096 recommend a list of candidates for consideration.

2097 ~~(t) One member who is a representative of public education.~~

2098 ~~(o)(\*)~~ One member who is a swimming pool contractor  
 2099 licensed to do business in this state and actively engaged in  
 2100 the profession. The Florida Swimming Pool Association and the  
 2101 United Pool and Spa Association are encouraged to recommend a  
 2102 list of candidates for consideration.

2103 ~~(p)(\*)~~ One member who is a representative of the green  
 2104 building industry and who is a third-party commission agent, a  
 2105 Florida board member of the United States Green Building Council  
 2106 or Green Building Initiative, a professional who is accredited  
 2107 under the International Green Construction Code (IGCC), or a  
 2108 professional who is accredited under Leadership in Energy and  
 2109 Environmental Design (LEED).

2110 ~~(q)(\*)~~ One member who is a representative of a natural gas  
 2111 distribution system and who is actively engaged in the  
 2112 distribution of natural gas in this state. The Florida Natural  
 2113 Gas Association is encouraged to recommend a list of candidates  
 2114 for consideration.

2115 ~~(x) One member who is a representative of the Department of~~  
 2116 ~~Agriculture and Consumer Services' Office of Energy. The~~  
 2117 ~~Commissioner of Agriculture is encouraged to recommend a list of~~

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2118 ~~candidates for consideration.~~

2119 ~~(y) One member who shall be the chair.~~

2120 Section 71. Subsection (7) of section 558.002, Florida  
 2121 Statutes, is amended to read:

2122 558.002 Definitions.—As used in this chapter, the term:

2123 (7) "Design professional" means a person, as defined in s.  
 2124 1.01, who is licensed in this state as an architect, ~~interior~~  
 2125 ~~designer~~, a landscape architect, an engineer, a surveyor, or a  
 2126 geologist or who is a registered interior designer, as defined  
 2127 in s. 481.203.

2128 Section 72. Subsection (3) of section 559.25, Florida  
 2129 Statutes, is amended to read:

2130 559.25 Exemptions.—The provisions of this part shall not  
 2131 apply to or affect the following persons:

2132 ~~(3) Duly licensed auctioneers, selling at auction.~~

2133 Section 73. Paragraphs (h) and (k) of subsection (2) of  
 2134 section 287.055, Florida Statutes, are amended to read:

2135 287.055 Acquisition of professional architectural,  
 2136 engineering, landscape architectural, or surveying and mapping  
 2137 services; definitions; procedures; contingent fees prohibited;  
 2138 penalties.—

2139 (2) DEFINITIONS.—For purposes of this section:

2140 (h) A "design-build firm" means a partnership, corporation,  
 2141 or other legal entity that:

2142 1. Is certified under s. 489.119 to engage in contracting  
 2143 through a certified or registered general contractor or a  
 2144 certified or registered building contractor as the qualifying  
 2145 agent; or

2146 2. Is qualified ~~certified~~ under s. 471.023 to practice or

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to offer to practice engineering; qualified ~~certified~~ under s.  
481.219 to practice or to offer to practice architecture; or  
qualified ~~certified~~ under s. 481.319 to practice or to offer to  
practice landscape architecture.

(k) A "design criteria professional" means a firm that is  
qualified ~~who holds a current certificate of registration~~ under  
chapter 481 to practice architecture or landscape architecture  
or a firm who holds a current certificate as a registered  
engineer under chapter 471 to practice engineering and who is  
employed by or under contract to the agency for the providing of  
professional architect services, landscape architect services,  
or engineering services in connection with the preparation of  
the design criteria package.

Section 74. Except as otherwise expressly provided in this  
act, this act shall take effect July 1, 2020.

## THE FLORIDA SENATE

## APPEARANCE RECORD

2/4/2020

Meeting Date

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

474

Bill Number (if applicable)

Topic DEREGULATION OF PROFESSIONS + OCCUPATIONS

Amendment Barcode (if applicable)

Name DAVID ROBERTS

Job Title \_\_\_\_\_

Address 210 S. MONROE ST.

Street

Phone 850-443-4820TALLAHASSEE

City

FL

State

32304

Zip

Email david@norrob.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing AMERICAN SOCIETY OF INTERIOR DESIGNERS + INTERNATIONAL INTERIOR DESIGN ASSOC.Appearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

2/4/20

Meeting Date

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

474

Bill Number (if applicable)

569536

Amendment Barcode (if applicable)

Topic

Deregulation : Florida Building Code

Name

Scott Jenkins

Job Title

Senior Gov't Consultant

Address

215 S. Monroe St. Ste. 500

Street

TLH

City

FL

State

32301

Zip

Phone

850 661-0829

Email

sjenkins@carlbatfield.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FL HOME BUILDERS ASSOC.

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

471  
Bill Number (if applicable) \_\_\_\_\_

Topic \_\_\_\_\_

Name Row Book

Amendment Barcode (if applicable) \_\_\_\_\_

Job Title \_\_\_\_\_

Address 104 W. Jefferson  
Street TC 11

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ASID / IIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

2 4 20

*Meeting Date*

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

474

*Bill Number (if applicable)*

Topic PROFESSIONS & OCCUPATIONS

*Amendment Barcode (if applicable)*

Name Dan Hendrickson

Job Title president Tallahassee Veterans Legal Collaborative

Address PO Box 1201

*Street*

Phone 850/570-1967

Tallahassee

FL

32302

*City*

*State*

*Zip*

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/4/20

*Meeting Date*

SB 474

*Bill Number (if applicable)*

Topic Deregulation of Professions and Occupations

*Amendment Barcode (if applicable)*

Name Logan Padgett

Job Title Director of Communications and Public Affairs

Address 100 N Duval Street

Phone 850-386-3131

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email lpadgett@jamesmadison.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The James Madison Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S 001 (10/11/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/04/2020

Meeting Date

474

Bill Number (if applicable)

Topic Deregulation of Professions & Occupations

Amendment Barcode (if applicable)

Name JL Garcia

Job Title retired

Address 6625 Northhaven Ct

Street

Riverview FL 33578

City

State

Zip

Phone

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/04/2020  
Meeting Date

474  
Bill Number (if applicable)

Topic Deregulation of Professions : Occupations  
Amendment Barcode (if applicable)

Name JOHN ZAK

Job Title RETIRED

Address 3541 98TH AVE N.  
Street

Phone \_\_\_\_\_

PINELLAS PARK, FL 33782  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/04/2020  
Meeting Date

4774  
Bill Number (if applicable)

Topic Deregulation of Professions: occupation

Name Gabriel Phillips

Amendment Barcode (if applicable)

Job Title Benefits

Address 3325 Diamond Knot Circle  
Street

Phone 727 238-5311

Tampa FL 33607  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

03/04/2020  
Meeting Date

SB 474  
Bill Number (if applicable)

Topic Deregulation of Professions & Occupation

Name Kevin W. Wright

Job Title US Army (RETI)

Address 3622 62nd Ave E  
Street

Phone 502 649 0025

Bradenton FL 34203  
City State Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

# APPEARANCE RECORD

4 Jun 2020  
Meeting Date

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

SB 474

Bill Number (if applicable)

Topic Occupational Licensing

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 W College Ave  
Street

Phone \_\_\_\_\_

TLH  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Concerned Veterans For America

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4/20

Meeting Date

474

Bill Number (if applicable)

Topic Deregulation

Name Allen Mortham Jr

Job Title Executive Director

Address 150 South Monroe St  
Street

City

Tallahassee

State

Florida

Zip

32301

Phone (850) 566-3760

Email Allen@FAPSC.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Postsecondary Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

2/4/2020

Meeting Date

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

474

Bill Number (if applicable)

Topic

DEREGULATION

Name

CHRISTIAN CANARA

Job Title

Address

Street

28 BISCAYNE BLVD #3180

City

Miami

State

FL

Zip

33131

Phone

305 721 1600

Email

CHRISTIAN@CHANGEECONSULTANTSFL.COM

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

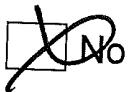
Representing

INSTITUTE FOR JUSTICE

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

02/04/2020  
Meeting Date

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

SB 474  
Bill Number (if applicable)

Topic DEREGULATION OF PROFESSIONS AND OCCUPATIONS

Name CESAR GRAJALES

Job Title COALITIONS DIRECTOR

Address 200 W. COLLEGE AVE  
Street

TALLAHASSEE FL  
City State Zip

Phone 786.260.9283

Email cgrajales@belibre.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing THE LIBRE INITIATIVE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/4/20

Meeting Date

474

Bill Number (if applicable)

Topic Deregulation of Professions and Occupations

Name Phillip Suderman

Job Title Policy Director

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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**APPEARANCE RECORD**

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

2/4/2020

Meeting Date

474

Bill Number (if applicable)

865724

Amendment Barcode (if applicable)

Topic DEREGULATION OF PROFESSIONS + OCCUPATIONSName DAVID ROBERTS

Job Title \_\_\_\_\_

Address 210 S. MONROE ST.

Street

Phone 850-443-4820TALLAHASSEE FL 32301

City

State

Zip

Email david@nrrob.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing AM. SOCIETY OF INTERIOR DESIGNERS + INTERNATIONAL INTERIOR DESIGNAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

ASSOC.

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/20

Meeting Date

474

Bill Number (if applicable)

569536

Amendment Barcode (if applicable)

Topic Deregulation of Professions

Name Chris Dawson

Job Title Legislative Counsel

Address 301 E. Pine Street, Suite 1400

Street

Orlando

City

FL

State

32801

Zip

Phone 407-843-8880

Email Chris.dawson@gray-robinson.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Roofing and Sheet Metal Contractors Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

# APPEARANCE RECORD

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

2/3/20

Meeting Date

CS/SB 474

Bill Number (if applicable)

751274

Amendment Barcode (if applicable)

Topic Deregulation bill

Name Tim Atkinson

Job Title \_\_\_\_\_

Address 2060 Delta Way  
Street

Phone 850-544-5304

Tallahassee FL 32303  
City State Zip

Email tatkinson@ohfe.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Mike Holt Enterprises of Leesburg, Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/2020  
Meeting Date

474  
Bill Number (if applicable)

891252  
Amendment Barcode (if applicable)

Topic Deregulation

Name JEFF BRANCH

Job Title Legislative Advocate

Address \_\_\_\_\_  
Street

Phone 7013701

Tallahassee  
City

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/04/20

Meeting Date

SB 474

Bill Number (if applicable)

Topic SB 474

Amendment Barcode (if applicable)

Name ~~Conner Mann~~ Colton Madill

Job Title Legislative Affairs Coordinator

Address 2601 Blair Stone Rd.

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 487-4823

Email Conner.Mann@myFlorida  
license.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Department of Business & Professional Reg.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2.4.2020

Meeting Date

474

Bill Number (if applicable)

Topic DEREGULATION

Amendment Barcode (if applicable)

Name MICHAEL HALMON

Job Title PRESIDENT

Address 3665 EAST Bay Dr #164  
Street

Phone \_\_\_\_\_

Largo FL 33771  
City State Zip

Email MICHAEL.HALMON @ AIBSCHOOL.EDU

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COSMETOLOGY + TECHNICAL SCHOOLS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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# APPEARANCE RECORD

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

2/4/2020

Meeting Date

474

Bill Number (if applicable)

688848

Amendment Barcode (if applicable)

Topic

Name JOHN PASQUALOCHE

Job Title EXECUTIVE DIRECTOR

Address PO BOX 325

Street

HOPE SOUND, FL 33475

City

State

Zip

Phone 772 349 1507

Email INFO@FFMIA.ORG

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FL FIRE MARSHALS & INSPE. ASSOC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

**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.)

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

---

BILL: CS/SB 660

INTRODUCER: Commerce and Tourism Committee and Senator Berman

SUBJECT: Uniform Commercial Real Estate Receivership Act

DATE: February 5, 2020

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2. <u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
3. _____	_____	<u>RC</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 660 adopts the Uniform Commercial Real Estate Receivership Act and authorizes a court to appoint a receiver, who acting as the court's agent, takes possession of, manages, and, in some cases, transfers or sells property that is in danger of waste, loss, or diminution in value.

The bill covers interests in real property, as well as incidental personal property, related to the use or operation of real property. However, the bill does not apply to real property improved by one or two dwelling units which includes the homestead of an individual owner or an affiliate of an individual owner.

The bill in large part codifies the common law of receivership, in some cases clarifying or providing more specific procedures for the rules governing receiverships.

The bill takes effect July 1, 2020.

**II. Present Situation:**

Equitable receiverships are a creation of common law, which the Supreme Court has stated should be reserved for cases involving fraud, self-dealing, or waste.<sup>1</sup> The decision in equity to appoint a receiver lies in the sound discretion of the trial court.<sup>2</sup> Generally, a temporary receiver

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<sup>1</sup> *Granada Lakes Villa Condominium Ass'n, Inc. v. Metro-Dade Investments Co.*, 125 So. 3d 756, 759 (Fla. 2013).

<sup>2</sup> *Ins. Mgmt, Inc. v. McLeod*, 194 So. 2d 16, 17 (Fla. 3d DCA 1966).

is appointed only to preserve the property and to protect the rights of all parties involved.<sup>3</sup> Courts should not interfere unless absolutely necessary to do complete justice.<sup>4</sup>

Separately, a statute can authorize the appointment of a receiver, and statutory receiverships may serve a different role or purpose than an equitable receivership.<sup>5</sup> Florida Statutes authorize the appointment of a receiver in several situations that do not involve any of the common law grounds of fraud, self-dealing, or waste for the appointment of an equitable receiver.<sup>6</sup> Many other statutes allow for a state agency or officer to seek the appointment of a receiver for certain property.<sup>7</sup> Further, a circuit court may appoint a receiver if, in a proceeding by a shareholder, “it is established that the directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered.”<sup>8</sup> “The appointment of receiver for a going corporation is a last resort remedy, and should not be employed when another adequate remedy is available.”<sup>9</sup> Instead of restricting a court’s power to appoint a receiver, these statutory provisions authorize a court to appoint a receiver under certain enumerated circumstances that do not involve any of the common law grounds for the appointment of an equitable receiver.<sup>10</sup>

A receiver is typically appointed in foreclosure proceedings to preserve the status quo, preserve the property, and collect and apply rents and profits to the payment of the mortgage.”<sup>11</sup> Appointing a receiver is a rare and extraordinary remedy.<sup>12</sup> To authorize the appointment of a receiver, a petitioner must show clear legal right to the property in controversy, or that he has some lien upon or property right in it, or that it constitutes a special fund of which he is entitled to satisfaction of his demand.<sup>13</sup> While the parties’ agreement to the appointment of a receiver is considered in determining whether to grant an ex parte receivership, it alone is not dispositive.<sup>14</sup>

The notice provisions of Florida Rule of Civil Procedure 1.610 apply to an application for

---

<sup>3</sup> *Id.*

<sup>4</sup> *Recarey v. Rader*, 320 So. 2d 28, 30 (Fla. 3d DCA 1975).

<sup>5</sup> *Granada Lakes*, 125 So. 2d at 759.

<sup>6</sup> *Id.*; see, e.g., s.393.0678, F.S. (authorizing the appointment of a receiver for a “residential habilitation center or a group home facility owned and operated by a corporation or partnership” under certain circumstances); s. 607.1432, F.S. (authorizing the appointment of a receiver for the purpose of winding up and liquidating a corporation); s. 605.0704 (winding up and liquidating a limited liability company); s. 658.79, F.S. (authorizing the appointment of a receiver for an insolvent bank for the purpose of taking charge of the assets and affairs of the bank); s. 631.0515, F.S. (authorizing the appointment of a receiver for the purpose of winding up a deadlocked but not insolvent corporation that owns all the stock of a Florida insurer); ss. 719.1124, 720.3053, F.S. (cooperative or homeowners’ association if association fails to fill vacancies on board of administration).

<sup>7</sup> See, e.g., s. 400.966, F.S. (authorizing the appointment of a receiver for intermediate care facilities for the developmentally disabled); s. 409.994 (authorizing the appointment of a receiver for community-based care agencies); s. 394.903 (crisis stabilization unit or residential treatment facility); s. 429.22, F.S. (authorizing the appointment of a receiver for assisted living facilities); s. 497.160, F.S. (authorizing the appointment of a receiver for funeral, cemetery, and consumer services).

<sup>8</sup> *Wenzel v. Burman*, 76 So. 3d 1005, 1006 (Fla. 3d DCA 2011) (quoting s. 607.1430(2)(a), F.S. (2011)).

<sup>9</sup> *Rader*, 320 So. 2d at 30.

<sup>10</sup> *Id.*

<sup>11</sup> *DeSilva v. First Cmty. Bank of Am.*, 42 So. 3d 285, 290 (Fla. 2d DCA 2010).

<sup>12</sup> *Plaza v. Plaza*, 78 So. 3d 4, 6 (Fla. 3d DCA 2011).

<sup>13</sup> *Apalachicola N.R. Co. v. Sommers*, 85 So. 361, 361 (1920).

<sup>14</sup> *DeSilva*, 42 So. 2d at 288.

receivership.<sup>15</sup> Ordinarily, a hearing is required before appointment of a receiver.<sup>16</sup> Pursuant to rule 1.610, a receiver can be appointed without notice or a hearing if: (1) it appears from the specific facts shown by affidavit or verified pleading that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; (2) the movant's attorney certifies in writing any efforts that have been made to give notice and the reasons why notice should not be required; and (3) the trial court's order defines the injury, states why the injury may be irreparable, and gives the reasons why the order was granted without notice if notice was not given.<sup>17</sup> The party requesting the appointment of a receiver without notice must set forth, in sworn form and with sufficient particularity, specific facts and circumstances reflecting that delay in appointing the receiver will result in irreparable injury to the property, or that giving notice itself will precipitate such injury to the property.<sup>18</sup> Thus, a receivership might be appropriate without notice and a hearing if the property is at immediate risk of being diverted, dissipated, destroyed, allowed to deteriorate, or wasted.<sup>19</sup>

A bond with "good and sufficient surety" should be required on the appointment of a receiver unless exceptional circumstances precluding the need or ability to provide a bond are present in the case.<sup>20</sup> The party seeking appointment of a receiver should pay a receivership bond adequate to indemnify an adverse party any damages it might suffer through the receivership of its property.<sup>21</sup> Additionally, the receiver should post bond to cover the damages that will be incurred if the receiver fails in his duties.<sup>22</sup>

The trial court's grant or denial of the appointment of a receiver and the court's termination or refusal to terminate a receivership is an appealable nonfinal order.<sup>23</sup>

The courts are generally vested with considerable discretion in determining who will pay the cost and expenses of receiverships.<sup>24</sup>

The appointment of a receiver in a case filed in federal court based on diversity jurisdiction is governed by federal law.<sup>25</sup>

### **III. Effect of Proposed Changes:**

The bill authorizes a court to appoint as its agent a receiver, who takes possession of, manages, and, in some cases, transfers or sells property that is in danger of waste, loss, or diminution in value.

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<sup>15</sup> See Fla. R. Civ. P. 1.620(a).

<sup>16</sup> *Edenfield v. Crisp*, 186 So.2d 545, 548 (Fla. 2d DCA 1966).

<sup>17</sup> *DeSilva*, 42 So. 3d at 288 (citing Fla. R. Civ. P. 1.610(a)(1)-(2)).

<sup>18</sup> *Id.* (citing Fla. R. Civ. P. 1.610(a)(1)(A)).

<sup>19</sup> *Id.*

<sup>20</sup> *Turtle Lake Associates, Ltd. V. Third Financial Servs., Inc.*, 518 So. 2d 959, 961-62 (Fla. 1st DCA 1988).

<sup>21</sup> See *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Fla. R. App. P. 9.130(3)(D).

<sup>24</sup> *Barredo v. Skyfrieght*, 430 So. 2d 513, 514 (Fla. 3d DCA 1983).

<sup>25</sup> *Nat'l Partnership Inv. Corp. v. Nat'l Housing Development Corp.*, 153 F.3d 1289, 1291 (11th Cir. 1998).

The bill does not apply to real property improved by one or two dwelling units, to residential real property occupied by the owner or the owner's immediate family, to personal property used primarily for personal, family, or household purposes. The bill does not apply to homestead property. The bill applies to property that is commercial in nature, and thus can apply to residential property from which the owner collects rents from tenants. The principles of law and equity supplement the bill unless they are displaced by a particular provision of the bill.

### **General Purposes and Procedure for Appointment of Receiver**

The bill allows a court to appoint a receiver before a judgment on the property has been entered to protect the interests of a party that demonstrates an apparent right, title, or interest in real property that is the subject of the action, if the property (or its revenue-producing potential) (1) is being subjected to or is in danger of waste, loss, substantial diminution in value, dissipation, or impairment, or (2) is or is about to be the subject of a voidable transaction (most commonly due to fraud).<sup>26</sup> If a judgement has been entered, the bill authorizes a court to appoint a receiver to enforce the judgment or to protect the real property during the pendency of an appeal of the judgment.

The provision for post-judgment appointment expands the common law, as courts have noted that the appointment of a receiver after entry of a judgment generally serves "no good purpose," and should happen only "where it appears that to protect the interests of all parties the decree of sale under foreclosure is to be postponed until the termination of other litigation ... and where the terms of the mortgage being foreclosed specifically provide for the appointment of a receiver by the court, the complainant is entitled to the appointment of such receiver pending the execution of the final decree."<sup>27</sup> The bill is consistent with the common law's allowance of the appointment of a receiver post-judgment to protect the interest of parties, but additionally allows the court to appoint a receiver post-judgment to carry the judgment into effect.

### **Appointment of Receivers in Connection with Foreclosures**

More specifically, the bill allows a court to appoint a receiver in connection with a mortgage foreclosure or enforcement if:

- Appointment is necessary to avoid waste, loss, diminution in value, transfer, dissipation, or impairment of the subject property,
- The mortgagor agreed to the appointment of a receiver upon default,
- The owner agreed to the appointment of a receiver after default,
- The subject property and other collateral held by the mortgagee are not valuable enough to pay the secured obligation,
- In the case of a rental property, the owner fails to turn over collected rents or mortgage proceeds, or
- The holder of a subordinate lien obtains a receiver for the property.

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<sup>26</sup> "A fraudulent transfer of property is voidable at the instance of a creditor." *Smith v. Effective Teleservices, Inc.*, 133 So. 3d 1048, 1052 (Fla. 4th DCA 2014); *see also* s. 726.109(1), F.S.

<sup>27</sup> *U.S. Bank Nat. Ass'n v. Cramer*, 113 So. 3d 1020, 1023 (Fla. 2d DCA 2013).

### **Court Authority to Stay Proceedings over Receivership Property**

The bill authorizes a court, after notice and opportunity for a hearing, to stay all proceedings to obtain possession or control over the receivership property or to enforce a lien against the property; the court may enjoin actions against the subject property. The court may condition the stay on the payment of a bond by the party requesting the stay. The court's order to stay proceedings, however, does not stay a mortgage enforcement or foreclosure, a criminal proceeding, or an action by a governmental unit enacting its regulatory power or tax authority. The bill also provides that if the court grants an injunction, it must specify the reasons for entry and the act or acts being restrained by the injunction.

### **Obligation to Turn Property over to Receiver**

Once a receiver is appointed, the bill requires a person owing debt on receivership property to pay the debt or turn over the subject property to the receiver on the receiver's demand. If the debtor has notice that a receiver has been appointed, the person does not satisfy the debt by paying the owner. If a creditor has possession of the subject property, the creditor, rather than the receiver, may retain possession of the subject property until the court orders adequate protection of the creditor's lien. A court may enter sanctions for civil contempt against a party that fails to turn over property to the receiver.

### **Qualifications for Receivers**

The bill describes the necessary qualifications for a receiver by listing criteria that disqualifies a person from serving as a receiver. As a result, the qualifications under the bill are more stringent than those described in the common law of equitable receiverships. Under the bill, a person may not be a receiver if he or she is an "affiliate" of a party to the receivership action. An affiliate is defined as a companion, family member, a person who lives in the same residence as the party, or regarding a corporation or other non-individual entity, someone who controls the entity or is a fiduciary of the entity. Additionally, a person may not be a receiver if the person has a financial interest adverse to a party or has a financial interest in the outcome of the action, or has an equity interest in a party.

### **Powers and Duties of Receivers**

The bill authorizes a receiver to manage receivership property. If the receivership property is a business, the receiver is authorized to operate the business. A receiver may assert rights of the property owner. With court approval, the receiver may incur debt to benefit the receivership property and make improvements to the property. The receiver may, with court approval, engage with and pay professionals (such as attorneys, appraisers, auctioneers, or brokers) to assist in the administration of the receivership.

### **Transfer of Receivership Property**

Before a judgment on the property is entered, the receiver may, with court approval, sell, lease, exchange, or transfer receivership property "other than in the ordinary course of business," if the

property owner expressly consents, in writing, to the receiver's proposed transfer or fails to object to the proposed transfer after receiving notice. After a judgment is entered, in the action in which the receiver is appointed, the receiver, with court approval, may transfer property to carry the judgment into effect or to preserve the property during the pendency of an appeal of the judgment.

The court may order that these pre- and post-judgment transfers of property are free and clear of liens on the property at the time of the transfer. If the court enters such an order, the liens that were previously on the property then attach to the proceeds of the transfer of the property. This transfer may occur in an open-market sale other than a public auction, and a creditor holding lien on the property may purchase the property, with the purchase price offset by the amount secured by the lien.

This provision allowing property transfers constitutes an expansion of the common law rule, which states that although there may be instances in which the parties to a foreclosure could agree that a sale by receiver would be appropriate, a sale by a receiver is ordinarily improper and, even if authorized, should be carefully watched by the court.<sup>28</sup>

### **Receiver Authority Regarding Executory Contracts**

The bill allows a receiver, with court approval, to accept or reject executory contracts of the owner. This essentially codifies the common law rule that a receiver is generally not obligated to carry out the executory contracts of the owner of the estate being administered unless he elects to be bound thereby.<sup>29</sup> Executory contracts are contracts where each party has remaining unperformed obligations, including apartment leases and business real estate or equipment leases.

If the receiver does not request court approval to adopt or reject the owner's executory contract within a reasonable time after being appointed, the receiver is deemed to have rejected the contract. A receiver's performance of an executory contract before court approval does not constitute an adoption of the executory contract. If a receiver rejects an executory contract, any right to possess property pursuant to that contract is terminated.

If the receiver rejects an executory contract for sale of the receivership property that is real property in possession of the purchaser, a receiver's termination of the executory contract constitutes a termination of the contract and the purchaser has a lien on the property for the recovery of any part of the purchase price the purchaser paid. Alternatively, the purchaser may retain its right to possession of the property and continue to perform all obligations under the executory contract, offsetting any damages caused by the owner's nonperformance.

If the executory contract in question is an unexpired lease on real property for which the owner is landlord, the receiver may not reject this contract if:

- The property is a tenant's primary residence,
- The receiver was appointed at the request of someone other than the mortgagee (i.e. the

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<sup>28</sup> *MB Plaza, LLC v. Wells Fargo Bank, Nat. Ass'n*, 72 So. 3d 205, 207 n.1 (Fla. 2d DCA 2011).

<sup>29</sup> *Real Estate Marketers, Inc. v. Wheeler*, 298 So. 2d 481, 483 (Fla. 1st DCA 1974).

- lender), or
- The receiver was appointed at the request of the mortgagee/lender, and
  - The lease is superior to the lien of the mortgage,
  - The tenant has an enforceable agreement with the mortgagee or holder of a senior lien
  - requiring that the tenant's occupancy will not be disturbed as long as the tenant performs its obligations under the lease,
  - The mortgagee consented to the lease, or
  - The terms of the lease were reasonable and the tenant had no actual or constructive knowledge that the lease violated the mortgage.

### **Effect of Enforcement by Mortgagee**

If a mortgagee requests appointment of a receiver to enforce a secured obligation, the appointment does not make the mortgagee a possessor of the receivership property, does not make the mortgagee an agent of the owner, does not make the secured obligation unenforceable, or limit any right available to the mortgagee with respect to the secured obligation.

### **Receiver Liability and Reporting Requirements**

The bill provides that a receiver may be sued personally for an act or omission in administering receivership property if there is approval from the court that appointed the receiver. The court may require the receiver to file reports describing the receiver's activities, which may include receipts and disbursements, payments made to professionals, and fees and expenses of the receiver. After the receiver's services are complete, the receiver must file a final report describing the receiver's activities, listing the receivership property and any property received during the receivership, payments to professionals, listing distributions made or proposed to be made to creditors, and requesting the approval of fees. After the court approves the receiver's final report and the receiver distributes all receivership property, the receiver is discharged.

### **Notice of Appointment of Receiver and Claims against and Distribution of Property**

Upon appointment, the receiver must give notice to creditors of the owner of receivership property either by mail or by publication as directed by the appointing court. The notice must specify the dates by which creditors holding claims against the owner of the receivership property must submit claims to the receiver; these dates must be at least 90 days after notice of appointment of receivership. Failure to submit claims to the receiver can bar a creditor's entitlement to a distribution from the receivership. The bill describes facial requirements for a claim submitted by the creditor. The receiver may object to a creditor's claim, and the court may allow or disallow the claim based on Florida law governing creditor claims.

The bill allows a court to appoint a receiver without notice to the adverse party if (1) it appears that immediate injury, waste, or diminution in value to the subject real estate will occur and (2) the attorney for the party moving for the appointment of a receiver certifies in writing that all efforts have been made to notify all adverse parties, or the reasons why such notice should not be required. The bill also requires the court's order appointing a receiver to define the injury and



state why it may be irreparable. Additionally, the court must explain why the order was granted without providing notice to adverse parties. This provision mirrors the notice exception in Florida Rule of Civil Procedure 1.610(a)(1).<sup>30</sup>

### ***Removal of Receiver and Termination of Receivership***

The appointing court may remove a receiver for cause and must replace a receiver that is removed, dies, or resigns. The appointing court may discharge a receiver if the court finds that the appointment of the receiver was improvident, the circumstances no longer warrant a receiver, or the appointment of the receiver was sought in bad faith. If the appointment was sought in bad faith, the court may assess against the person who sought the appointment, the fees of the receivership, and the actual damages caused by the appointment.

### ***Bonding Requirement***

The bill requires that the party moving for appointment of a receiver give bond in an amount the court deems proper before an order or injunction is entered. The bond must be conditioned for the payment of costs and damages sustained by the adverse party if the order is improperly entered. This provision effectively codifies a common law rule.<sup>31</sup>

### ***Distribution of Receivership Property***

The distribution of receivership property to a creditor with a perfected lien must be made in accordance with the creditor's priority based on Florida law. The distribution to a creditor with an unsecured claim must be made as directed by the court. Therefore, the common law rule for preference after appointment of a receiver remains that once property is placed under the control of the court through appointment of a receiver, no creditor may obtain preference by any lien rendered subsequent even if the suit under which the judgment lien is acquired was commenced prior to the date of the order appointing the receiver.<sup>32</sup> A receiver appointed by the court has the status of a "lien creditor" as defined in s. 679.1021, F.S., (the Uniform Commercial Code), and the receiver's interest therefore takes priority over certain other security interests in the receivership property.<sup>33</sup>

### ***Miscellaneous Provisions***

A party adversely affected by an injunction or order appointing receiver may move to dissolve or modify the order at any time, and the court shall hear the motion within 5 days after the movant applies for a hearing on the motion or at a time deemed reasonable by the court.

The bill does not apply to actions in which a state agency or officer is expressly authorized by statute to seek or obtain the appointment of a receiver. The bill therefore does not affect the receivership proceedings outlined in, e.g. s. 400.966, F.S. (intermediate care facilities for the developmentally disabled); s. 409.994, F.S. (Community-based care agencies); s. 394.903 (crisis

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<sup>30</sup> *DeSilva*, 42 So. 3d at 288.

<sup>31</sup> See *Turtle Lake Associates, Ltd. v. Third Financial Servs., Inc.*, 518 So. 2d 959, 961-62 (Fla. 1st DCA 1988).

<sup>32</sup> *Sunland Mortg. Corp. v. Lewis*, 515 So. 2d 1337, 1339 (Fla. 5th DCA 1987).

<sup>33</sup> See ss. 679.334(4), 679.703, 679.704, and 679.705, F.S.

stabilization unit or residential treatment facility); s. 429.22, F.S. (assisted living facilities).

The bill confers to the court appointing the receiver the exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property. This effectively codifies the common law rule.<sup>34</sup>

The bill allows the court to require the party seeking appointment of a receiver to give security to cover any damages, reasonable attorneys' fees, and costs incurred if the court later determines that the appointment of a receiver was not justified. The court will remit the security to the party who paid it if the court determines that the appointment of receiver was justified. This generally codifies the common law rule, while defining a more specific procedure.<sup>35</sup>

The bill allows the appointing court to award the receiver reasonable and necessary fees, paid from the receivership property. Alternatively, the court may order the fees be paid by a person that requested the appointment of the receiver or a person whose conduct justified the appointment of a receiver.

The bill allows a court to appoint a receiver that was appointed in another state as an ancillary receiver to property located in Florida. This provision is consistent with the common law rule that applies principles of comity, and Florida courts generally recognize a foreign receiver's standing to bring an action in this state.<sup>36</sup> Under certain circumstances, a foreign receiver may be listed as an ancillary receiver for property located in Florida.<sup>37</sup>

The bill takes effect July 1, 2020.

#### **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:**

None.

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<sup>34</sup> See, e.g., *Knickerbocker Trust Co. v. Green Bay Phosphate Co.*, 62 Fla. 519, 524 (Fla. 1911) ("A receiver is the agent of the court ....").

<sup>35</sup> See *Turtle Lake*, 518 So. 2d at 961-62 (Fla. 1st DCA 1988).

<sup>36</sup> *Farley v. Farley*, 790 So. 2d 574, 575 (Fla. 4th DCA 2001).

<sup>37</sup> See *Id.* at 574.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may minimize the risk of the waste or dissipation of property that is the subject of foreclosure proceedings, which will provide protection to creditors.

C. Government Sector Impact:

The bill adds procedures for the appointment of a receiver and may increase judicial labor.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 714.01, 714.02, 714.03, 714.04, 714.05, 714.06, 714.07, 714.08, 714.09, 714.10, 714.11, 714.12, 714.13, 714.14, 714.15, 714.16, 714.17, 714.18, 714.19, 714.20, 714.21, 714.22, 714.23, 714.24, 714.25, 714.26, 714.27, 714.28.

**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 Commerce and Tourism Committee on February 5, 2020:**

The committee substitute:

- Adds “incidental” to modify personal property to clarify that only incidental personal property located on the commercial property that was related to or used in operating commercial property is governed by the Act;
- Gives the court discretion to hear a motion to dissolve or modify an order appointing a receiver at a time the court determines is reasonable and appropriate;
- Gives the court discretion to hear a motion for relief from a stay or an injunction at a time the court determines is reasonable and appropriate;

- Allows a person who is adversely affected by a stay or an injunction to apply to the court for relief;
- Clarifies that ch. 714 does not apply to real property improved by one or two dwelling units which includes the homestead of an individual owner or an affiliate of an individual owner;
- Inserts “in writing” to avoid issues as to whether the owner of the subject property actually provided consent to the receiver’s proposed use or transfer of the subject property before a judgment was entered;
- Clarifies that if service cannot be effectuated pursuant to ch. 48, F.S. on a financial institution lienholder, as provided in s. 655.0201, F.S., the receiver may effect service of notice on the nonparty lienholder pursuant to ch. 49, F.S. or as otherwise ordered by the court; and
- Clarifies that s. 714.16(3), F.S. is referring to “the action in which the receiver is appointed.”

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Berman) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 237 - 636  
and insert:

(4) This chapter does not displace any existing rule of procedural or judicial administration of this state governing service or notice, including, without limitation, Rule 1.070, Florida Rules of Civil Procedure, and Rule 2.525, Florida Rules of Judicial Administration, which shall remain in full force and effect.



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714.04 Scope; exclusions.-

(1) This chapter applies to a receivership initiated in a court of this state for an interest in real property and any incidental personal property related to or used in operating the real property.

(2) This chapter does not apply to:

(a) Actions in which a state agency or officer is expressly authorized by statute to seek or obtain the appointment of a receiver;

(b) Actions authorized by or commenced under federal law;

(c) Real property improved by one or two dwelling units which includes the homestead of an individual owner or an affiliate of an individual owner;

(d) Property of an individual exempt from forced sale, execution, or seizure under the laws of this state; or

(e) Personal property of an individual which is used primarily for personal, family, or household purposes.

(3) This chapter does not limit the authority of a court to appoint a receiver under the laws of this state other than this chapter.

(4) This chapter does not limit an individual's homestead rights under the laws of this state or federal law.

(5) Unless displaced by a particular provision of this chapter, the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, supplement this chapter.

714.05 Power of the court.-The court that appoints a



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receiver under this chapter has exclusive jurisdiction to direct  
the receiver and determine any controversy related to the  
receivership or receivership property.

714.06 Appointment of receiver.—

(1) The court may appoint a receiver:

(a) Before judgment, to protect a party that demonstrates  
an apparent right, title, or interest in real property that is  
the subject of the action, if the property or its revenue-  
producing potential:

1. Is being subjected to or is in danger of waste, loss,  
substantial diminution in value, dissipation, or impairment; or

2. Has been or is about to be the subject of a voidable  
transaction;

(b) After judgment:

1. To carry the judgment into effect; or

2. To preserve nonexempt real property pending appeal or  
when an execution has been returned unsatisfied and the owner  
refuses to apply the property in satisfaction of the judgment;

(c) In an action in which a receiver for real property may  
be appointed on equitable grounds, subject to the requirements  
of paragraphs (a) and (b); or

(d) During the time allowed for redemption, to preserve  
real property sold in an execution or foreclosure sale and  
secure its rents to the person entitled to the rents.

(2) In connection with the foreclosure or other enforcement  
of a mortgage, the court shall consider the following facts and  
circumstances, together with any other relevant facts, in  
deciding whether to appoint a receiver for the mortgaged  
property:



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69       (a) Appointment is necessary to protect the property from  
70 waste, loss, substantial diminution in value, transfer,  
71 dissipation, or impairment;

72       (b) The mortgagor agreed in a signed record to the  
73 appointment of a receiver on default;

74       (c) The owner agreed, after default and in a signed record,  
75 to appointment of a receiver;

76       (d) The property and any other collateral held by the  
77 mortgagee are not sufficient to satisfy the secured obligation;

78       (e) The owner fails to turn over to the mortgagee proceeds  
79 or rents the mortgagee was entitled to collect; or

80       (f) The holder of a subordinate lien obtains appointment of  
81 a receiver for the property.

82       (3) The court may condition the appointment of a receiver  
83 without prior notice or hearing under s. 714.03 on the giving of  
84 security by the person seeking the appointment for the payment  
85 of damages, reasonable attorney fees, and costs incurred or  
86 suffered by any person if the court later concludes that the  
87 appointment was not justified. If the court later concludes that  
88 the appointment was justified and the order of appointment of  
89 the receiver becomes final and no longer subject to appeal, the  
90 court shall release the bond or other security. When any order  
91 appointing a receiver or providing for injunctive relief is  
92 issued on the pleading of a municipality or the state, or any  
93 officer, agency, or political subdivision thereof, the court may  
94 require or dispense with a bond, with or without surety, and  
95 conditioned in the same manner, having due regard for public  
96 interest.

97       (4) A party adversely affected by an order appointing a





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receiver may move to dissolve or modify the order at any time.  
If a party moves to dissolve or modify the order, the motion  
must be heard within 5 days after the movant applies for a  
hearing on the motion or at such time as the court determines is  
reasonable and appropriate under the circumstances after the  
movant applies for a hearing on the motion. After notice and a  
hearing, the court may grant relief for cause shown.

714.07 Disqualification from appointment as receiver;  
disclosure of interest.—

(1) The court may not appoint a person as receiver unless  
the person submits to the court a statement under penalty of  
perjury that the person is not disqualified.

(2) Except as otherwise provided in subsection (3), a  
person is disqualified from appointment as receiver if the  
person:

(a) Is an affiliate of a party;

(b) Has an interest materially adverse to an interest of a  
party;

(c) Has a material financial interest in the outcome of the  
action, other than compensation the court may allow the  
receiver;

(d) Has a debtor-creditor relationship with a party; or

(e) Holds an equity interest in a party, other than a  
noncontrolling interest in a publicly traded company.

(3) A person is not disqualified from appointment as  
receiver solely because the person:

(a) Was appointed receiver or is owed compensation in an  
unrelated matter involving a party or was engaged by a party in  
a matter unrelated to the receivership;



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(b) Is an individual obligated to a party on a debt that is not in default and was incurred primarily for personal, family, or household purposes; or

(c) Maintains with a party a deposit account, as defined in s. 679.1021.

(4) A person seeking appointment of a receiver may nominate a person to serve as receiver, but the court is not bound by the nomination.

714.08 Receiver's bond; alternative security.—

(1) Except as otherwise provided in subsection (2), a receiver shall post with the court a bond that:

(a) Is conditioned on the faithful discharge of the receiver's duties;

(b) Has one or more sureties approved by the court;

(c) Is in an amount the court specifies; and

(d) Is effective as of the date of the receiver's appointment.

(2) The court may approve the receiver posting an alternative security with the court, such as a letter of credit or deposit of funds. The receiver may not use receivership property as alternative security. Interest that accrues on deposited funds must be paid to the receiver upon the receiver's discharge.

(3) The court may authorize a receiver to act before the receiver posts the bond or alternative security required by this section if the action is necessary to prevent or mitigate immediate injury, loss, or damage to the party who sought the appointment of the receiver, or immediate waste, dissipation, impairment, or substantial diminution in value to the



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receivership property.

(4) A claim against a receiver's bond or alternative security must be made not later than 1 year after the date the receiver is discharged.

714.09 Status of receiver as lien creditor.—Upon appointment of a receiver, the receiver has the status of a lien creditor under:

(1) Chapter 679 as to receivership property or fixtures; and

(2) Chapter 695 as to receivership property that is real property.

714.10 Security agreement covering after-acquired property.—Except as otherwise provided by law other than this chapter, property that a receiver or an owner acquires after appointment of the receiver is subject to a security agreement entered into before the appointment to the same extent as if the court had not appointed the receiver.

714.11 Collection and turnover of receivership property.—

(1) Unless the court orders otherwise, on demand by a receiver:

(a) A person that owes a debt that is receivership property and is matured or payable on demand or on order shall pay the debt to or on the order of the receiver, except to the extent the debt is subject to setoff or recoupment; and

(b) Subject to subsection (3), a person that has possession, custody, or control of receivership property shall turn the property over to the receiver.

(2) A person that has notice of the appointment of a receiver and owes a debt that is receivership property may not



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185 satisfy the debt by payment to the owner.

186 (3) If a creditor has possession, custody, or control of  
187 receivership property and the validity, perfection, or priority  
188 of the creditor's lien on the property depends on the creditor's  
189 possession, custody, or control, the creditor may retain  
190 possession, custody, or control until the court orders adequate  
191 protection of the creditor's lien.

192 (4) Unless a bona fide dispute exists about a receiver's  
193 right to possession, custody, or control of receivership  
194 property, the court may sanction as civil contempt a person's  
195 failure to turn the property over when required by this section.

196 714.12 Powers and duties of receiver.-

197 (1) Except as limited by court order or the laws of this  
198 state other than this chapter, a receiver may:

199 (a) Collect, control, manage, conserve, and protect  
200 receivership property;

201 (b) Operate a business constituting receivership property,  
202 including preservation, use, sale, lease, license, exchange,  
203 collection, or disposition of the property in the ordinary  
204 course of business;

205 (c) In the ordinary course of business, incur unsecured  
206 debt and pay expenses incidental to the receiver's preservation,  
207 use, sale, lease, license, exchange, collection, or disposition  
208 of receivership property;

209 (d) Assert a right, claim, cause of action, or defense of  
210 the owner which relates to receivership property;

211 (e) Seek and obtain instruction from the court concerning  
212 receivership property, exercise of the receiver's powers, and  
213 performance of the receiver's duties;



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(f) Upon subpoena, compel a person to submit to examination under oath, or to produce and permit inspection and copying of designated records or tangible things, with respect to receivership property or any other matter that may affect administration of the receivership;

(g) Engage a professional pursuant to s. 714.15;

(h) Apply to a court of another state for appointment as ancillary receiver with respect to receivership property located in that state; and

(i) Exercise any power conferred by court order, this chapter, or the laws of this state other than this chapter.

(2) With court approval, a receiver may:

(a) Incur debt for the use or benefit of receivership property other than in the ordinary course of business;

(b) Make improvements to receivership property;

(c) Use or transfer receivership property other than in the ordinary course of business pursuant to s. 714.16;

(d) Adopt or reject an executory contract of the owner pursuant to s. 714.17;

(e) Pay compensation to the receiver pursuant to s. 714.21, and to each professional engaged by the receiver under s. 714.15;

(f) Recommend allowance or disallowance of a claim of a creditor pursuant to s. 714.20; and

(g) Make a distribution of receivership property pursuant to s. 714.20.

(3) A receiver shall:

(a) Prepare and retain appropriate business records, including a record of each receipt, disbursement, and



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disposition of receivership property;

(b) Account for receivership property, including the proceeds of a sale, lease, license, exchange, collection, or other disposition of the property;

(c) File with the recording office of the county in which the real property is located a copy of the order appointing the receiver and, if a legal description of the real property is not included in the order, the legal description;

(d) Disclose to the court any fact arising during the receivership which would disqualify the receiver under s. 714.07; and

(e) Perform any duty imposed by court order, this chapter, or the laws of this state other than this chapter.

(4) The powers and duties of a receiver may be expanded, modified, or limited by court order.

714.13 Duties of owner.—

(1) An owner shall:

(a) Assist and cooperate with the receiver in the administration of the receivership and the discharge of the receiver's duties;

(b) Preserve and turn over to the receiver all receivership property in the owner's possession, custody, or control;

(c) Identify all records and other information relating to the receivership property, including a password, authorization, or other information needed to obtain or maintain access to or control of the receivership property, and make available to the receiver the records and information in the owner's possession, custody, or control;

(d) Upon subpoena, submit to examination under oath by the



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receiver concerning the acts, conduct, property, liabilities,  
and financial condition of the owner or any matter relating to  
the receivership property or the receivership; and

(e) Perform any duty imposed by court order, this chapter,  
or the laws of this state other than this chapter.

(2) If an owner is a person other than an individual, this  
section applies to each officer, director, manager, member,  
partner, trustee, or other person exercising or having the power  
to exercise control over the affairs of the owner.

(3) If a person knowingly fails to perform a duty imposed  
by this section, the court may:

(a) Award the receiver actual damages caused by the  
person's failure, reasonable attorney fees, and costs; and

(b) Sanction the failure as civil contempt.

714.14 Stay; injunction.—

(1) Except as otherwise provided in subsection (5), after  
notice and opportunity for a hearing, the court may enter an  
order providing for a stay, applicable to all persons, of any  
act, action, or proceeding:

(a) To obtain possession of, exercise control over, or  
enforce a judgment against all or a portion of the receivership  
property as defined in the order creating the stay; and

(b) To enforce a lien against all or a portion of the  
receivership property to the extent the lien secures a claim  
against the owner which arose before entry of the order.

The court shall include in its order a specific description of  
the receivership property subject to the stay, and shall include  
the following language in the title of the order: "Order Staying



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Certain Actions to Enforce Claims against Receivership  
Property."

(2) Except as otherwise provided in subsection (5), the  
court may enjoin an act, action, or proceeding against or  
relating to receivership property if the injunction is necessary  
to protect against misappropriation of, or waste relating  
directly to, the receivership property.

(3) If the court grants injunctive relief, the injunction  
must specify the reasons for entry and must describe in  
reasonable detail the act or acts restrained without reference  
to a pleading or other document. The injunction is binding on  
the parties to the action; on the parties' officers, agents,  
servants, employees, and attorneys; and on any person who  
receives actual notice of the injunction and is in active  
concert or participation with the parties.

(4) A person whose act, action, or proceeding is stayed or  
enjoined under this section, or who is otherwise adversely  
affected by such stay or injunction, may apply to the court for  
relief from the stay or injunction. If a person moves for such  
relief, the motion must be heard within 5 days after the movant  
applies for a hearing on the motion or at such time as the court  
determines is reasonable and appropriate under the circumstances  
after the movant applies for a hearing on the motion. After  
notice and a hearing, the court may grant relief for cause  
shown.

(5) An order under subsection (1) or subsection (2) does  
not operate as a stay or injunction of:

(a) Any act, action, or proceeding to foreclose or  
otherwise enforce a mortgage by the person seeking appointment





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of the receiver;

(b) Any act, action, or proceeding to perfect, or maintain or continue the perfection of, an interest in receivership property;

(c) Commencement or continuation of a criminal proceeding;

(d) Commencement or continuation of an action or proceeding, or enforcement of a judgment other than a money judgment, in an action or proceeding by a governmental unit to enforce its police or regulatory power; or

(e) Establishment by a governmental unit of a tax liability against the receivership property or the owner of such receivership property, or an appeal of any such liability.

(6) The court may void an act that violates a stay or injunction under this section.

(7) The scope of the receivership property subject to the stay under subsection (1) may be modified upon request of the receiver or other person, after notice and an opportunity for a hearing.

(8) In connection with the entry of an order under subsection (1) or subsection (2), the court shall determine whether an additional bond or alternative security will be required as a condition to entry of the stay or injunction and, if required, direct the party requesting the stay or injunction to post a bond or alternative security as a condition for the stay or injunction to become effective.

714.15 Engagement and compensation of professional.—

(1) With court approval, a receiver may engage an attorney, an accountant, an appraiser, an auctioneer, a broker, or another professional to assist the receiver in performing a duty or



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exercising a power of the receiver. The receiver shall disclose  
to the court:

- (a) The identity and qualifications of the professional;
- (b) The scope and nature of the proposed engagement;
- (c) Any potential conflict of interest; and
- (d) The proposed compensation.

(2) A person is not disqualified from engagement under this  
section solely because of the person's engagement by,  
representation of, or other relationship with the receiver, a  
creditor, or a party. This chapter does not prevent the receiver  
from serving in the receivership as an attorney, an accountant,  
an auctioneer, or a broker when authorized by law.

(3) A receiver or professional engaged under subsection (1)  
shall file with the court an itemized statement of the time  
spent, work performed, and billing rate of each person that  
performed the work and an itemized list of expenses. The  
receiver shall pay the amount approved by the court.

714.16 Use or transfer of receivership property not in  
ordinary course of business.-

(1) For the purposes of this section, the term "good faith"  
means honesty in fact and the observance of reasonable  
commercial standards of fair dealing.

(2) Before judgment is entered with respect to the  
receivership property in the action in which the receiver is  
appointed, with court approval after notice to all parties with  
an interest in the property, including all lienholders, and a  
hearing, a receiver may use or transfer by sale, lease, license,  
exchange, or other disposition receivership property other than  
in the ordinary course of business only if the owner of the



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property:

(a) After the commencement of the action in which the receiver is appointed, expressly consents in writing to the receiver's proposed use or transfer of the receivership property, and the receiver notes the property owner's express consent in the motion to approve the proposed use or transfer; or

(b) Before or at the hearing on the receiver's motion to approve the use or transfer of the receivership property, fails to object thereto after the receiver in good faith has provided reasonable advance written notice to the property owner of the proposed use or transfer, and the receiver demonstrates in the motion that the proposed use or transfer is necessary to prevent waste, loss, substantial diminution in value, dissipation, or impairment of the property or its revenue-producing potential or to prevent a voidable transaction involving the property.

Service of notice to lienholders who are not parties to the action must be made as provided in chapter 48 for service of original process or, in the case of a financial institution lienholder, as provided in s. 655.0201. If service cannot be effectuated in such manner, upon authorization by court order, the receiver may effect service of notice on the nonparty lienholder pursuant to chapter 49 or as otherwise ordered by the court.

(3) After judgment is entered against the property owner and with court approval in the action in which the receiver is appointed, a receiver may use or transfer



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

And the title is amended as follows:

Delete lines 8 - 47

and insert:

for certain court orders; providing construction and applicability; specifying that a court has exclusive jurisdiction to direct receivers and determine controversies under certain circumstances; providing requirements and authorizations relating to the appointment of a receiver; authorizing certain parties to move to dissolve or modify certain orders; requiring that such motions be heard within a specified timeframe; specifying when a person is or is not disqualified from appointment as a receiver; authorizing certain persons to nominate someone to serve as a receiver; specifying that the court is not bound by such nomination; requiring a receiver to post a bond with the court which meets certain requirements; providing an exception; prohibiting a claim against a receiver's bond or alternative security from being made after a certain time; providing that an appointed receiver has certain statuses of a lien creditor; providing that certain property is subject to specified security agreements; providing requirements relating to the collection and turnover of receivership property; providing for powers and duties of a receiver; authorizing the court to expand, modify, or limit such powers and duties; providing for duties of an owner; authorizing a court



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to take certain actions if a person knowingly fails to perform a duty; authorizing a court to take certain actions relating to stays and injunctions; authorizing certain persons to apply for relief from a stay or injunction; requiring that certain motions be heard within a specified timeframe; specifying when an order does not operate as a stay or injunction; authorizing receivers to engage and compensate certain professionals under certain circumstances; requiring certain persons to file an itemized statement with the court; requiring a receiver to pay an amount approved by the court; defining the term "good faith"; authorizing a receiver to use or transfer receivership property other than in the ordinary course of business under certain circumstances; providing for the service of notice to lienholders who are not parties to the action;

By Senator Berman

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1 A bill to be entitled  
 2 An act relating to the Uniform Commercial Real Estate  
 3 Receivership Act; creating chapter 714, F.S., relating  
 4 to the Uniform Commercial Real Estate Receivership  
 5 Act; providing a short title; defining terms;  
 6 prohibiting a court from issuing certain orders unless  
 7 certain requirements are met; providing requirements  
 8 for certain court orders; authorizing certain parties  
 9 to move to dissolve or modify certain orders;  
 10 requiring that such motions be heard within a  
 11 specified timeframe; providing construction and  
 12 applicability; specifying that a court has exclusive  
 13 jurisdiction to direct receivers and determine  
 14 controversies under certain circumstances; providing  
 15 requirements and authorizations relating to the  
 16 appointment of a receiver; specifying when a person is  
 17 or is not disqualified from appointment as a receiver;  
 18 authorizing certain persons to nominate someone to  
 19 serve as a receiver; specifying the court is not bound  
 20 by such nomination; requiring a receiver to post a  
 21 bond with the court which meets certain requirements;  
 22 providing an exception; prohibiting a claim against a  
 23 receiver's bond or alternative security from being  
 24 made after a certain time; providing that an appointed  
 25 receiver has certain statuses of a lien creditor;  
 26 providing that certain property is subject to  
 27 specified security agreements; providing requirements  
 28 relating to the collection and turnover of  
 29 receivership property; providing for powers and duties

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

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30 of a receiver; authorizing the court to expand,  
 31 modify, or limit such powers and duties; providing for  
 32 duties of an owner; authorizing a court to take  
 33 certain actions if a person knowingly fails to perform  
 34 a duty; authorizing a court to take certain actions  
 35 relating to stays and injunctions; authorizing certain  
 36 persons to apply for relief from a stay or injunction;  
 37 specifying when an order does not operate as a stay or  
 38 injunction; authorizing receivers to engage and  
 39 compensate certain professionals under certain  
 40 circumstances; requiring certain persons to file an  
 41 itemized statement with the court; requiring a  
 42 receiver to pay an amount approved by the court;  
 43 defining the term "good faith"; authorizing a receiver  
 44 to use or transfer receivership property other than in  
 45 the ordinary course of business under certain  
 46 circumstances; providing for the service of notice to  
 47 lien holders who are not parties to the action;  
 48 defining the term "timeshare interest"; authorizing a  
 49 receiver to adopt or reject an executory contract of  
 50 the owner relating to receivership property under  
 51 certain circumstances; requiring that a claim of  
 52 damages for rejection of a contract be submitted  
 53 within a specified timeframe; authorizing a purchaser  
 54 to take certain actions if a receiver rejects an  
 55 executory contract under certain circumstances;  
 56 prohibiting a receiver from rejecting unexpired leases  
 57 of certain property under certain circumstances;  
 58 providing for defenses and immunities of a receiver;

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59 providing requirements for interim reports filed by a  
 60 receiver; providing requirements relating to notices  
 61 of appointment; authorizing the court to enter certain  
 62 orders if the court concludes that receivership  
 63 property is likely to be insufficient to satisfy  
 64 certain claims; providing requirements for certain  
 65 distributions of receivership property; authorizing a  
 66 court to award fees and expenses; authorizing a court  
 67 to order certain persons to pay fees and expenses;  
 68 providing for the removal and replacement of a  
 69 receiver and the termination of a court's  
 70 administration of the receivership property under  
 71 certain circumstances; requiring a receiver to file a  
 72 final report containing certain information upon  
 73 completion of the receiver's duties; specifying that a  
 74 receiver is discharged if certain requirements are  
 75 met; authorizing a court to appoint ancillary  
 76 receivers under certain circumstances; providing for  
 77 rights, powers, and duties of an ancillary receiver;  
 78 specifying that certain requests, appointments, and  
 79 applications by a mortgagee do not have certain  
 80 effects; providing construction and applicability;  
 81 providing an effective date.

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

85 Section 1. Chapter 714, Florida Statutes, consisting of  
 86 sections 714.01-714.28, is created to read:

87 CHAPTER 714

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88 UNIFORM COMMERCIAL REAL ESTATE RECEIVERSHIP ACT  
 89 714.01 Short title.—This chapter may be cited as the  
 90 Uniform Commercial Real Estate Receivership Act.  
 91 714.02 Definitions.—For the purposes of this chapter, the  
 92 term:  
 93 (1) "Affiliate" means:  
 94 (a) With respect to an individual:  
 95 1. A companion of the individual;  
 96 2. A lineal ancestor or descendent, whether by blood or  
 97 adoption, of:  
 98 a. The individual; or  
 99 b. A companion of the individual;  
 100 3. A companion of an ancestor or descendent as described in  
 101 subparagraph 2.;  
 102 4. A sibling, aunt, uncle, great aunt, great uncle, first  
 103 cousin, niece, nephew, grandniece, or grandnephew of the  
 104 individual, whether related by the whole or the half blood or  
 105 adoption, or a companion of any of them; or  
 106 5. Any other person occupying the residence of the  
 107 individual; and  
 108 (b) With respect to a person other than an individual:  
 109 1. Another person who directly or indirectly controls, is  
 110 controlled by, or is under common control with the person;  
 111 2. An officer, director, manager, member, partner,  
 112 employee, or trustee or other fiduciary of the person; or  
 113 3. A companion of an individual or an individual occupying  
 114 the residence of an individual.  
 115 (2) "Companion" means:  
 116 (a) The spouse of an individual;

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- 117 (b) The registered domestic partner of an individual; or  
 118 (c) Another individual in a civil union with an individual.  
 119 (3) "Court" means the court of general equity jurisdiction  
 120 in this state.  
 121 (4) "Executory contract" means a contract, including a  
 122 lease, under which each party has an unperformed obligation and  
 123 the failure of a party to complete performance would constitute  
 124 a material breach.  
 125 (5) "Governmental unit" means an office, department,  
 126 division, bureau, board, commission, or other agency of this  
 127 state or a subdivision of this state.  
 128 (6) "Lien" means an interest in property which secures  
 129 payment or performance of an obligation.  
 130 (7) "Mortgage" means a record, however denominated, that  
 131 creates or provides for a consensual lien on real property or  
 132 rents, even if the record also creates or provides for a lien on  
 133 personal property.  
 134 (8) "Mortgagee" means a person entitled to enforce an  
 135 obligation secured by a mortgage.  
 136 (9) "Mortgagor" means a person who grants a mortgage or a  
 137 successor in ownership of the real property described in the  
 138 mortgage.  
 139 (10) "Owner" means the person for whose property a receiver  
 140 is appointed.  
 141 (11) "Person" means an individual, estate, business or  
 142 nonprofit entity, public corporation, government or governmental  
 143 subdivision, agency, or instrumentality or other legal entity.  
 144 (12) "Proceeds" means any of the following property:  
 145 (a) Whatever is acquired on the sale, lease, license,

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- 146 exchange, or other disposition of receivership property.  
 147 (b) Whatever is collected on, or distributed on account of,  
 148 receivership property.  
 149 (c) Rights arising out of receivership property.  
 150 (d) To the extent of the value of receivership property,  
 151 claims arising out of the loss, nonconformity, or interference  
 152 with the use of, defects or infringement of rights in, or damage  
 153 to the property.  
 154 (e) To the extent of the value of receivership property and  
 155 to the extent payable to the owner or mortgagee, insurance  
 156 payable by reason of the loss or nonconformity of, defects or  
 157 infringement of rights in, or damage to the property.  
 158 (13) "Property" means all of a person's right, title, and  
 159 interest, both legal and equitable, in real and personal  
 160 property, tangible and intangible, wherever located and however  
 161 acquired. The term includes proceeds, products, offspring,  
 162 rents, or profits of or from the property.  
 163 (14) "Receiver" means a person appointed by the court as  
 164 the court's agent, and subject to the court's direction, to take  
 165 possession of, manage, and, if authorized by this chapter or  
 166 court order, transfer, sell, lease, license, exchange, collect,  
 167 or otherwise dispose of receivership property.  
 168 (15) "Receivership" means a proceeding in which a receiver  
 169 is appointed.  
 170 (16) "Receivership property" means the property of an owner  
 171 which is described in the order appointing a receiver or a  
 172 subsequent order. The term includes any proceeds, products,  
 173 offspring, rents, or profits of or from the property.  
 174 (17) "Record," if used as a noun, means information that is



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175 inscribed on a tangible medium or that is stored on an  
 176 electronic or other medium and is retrievable in perceivable  
 177 form.  
 178 (18) "Rents" means:  
 179 (a) Sums payable for the right to possess or occupy, or for  
 180 the actual possession or occupation of, real property of another  
 181 person;  
 182 (b) Sums payable to a mortgagor under a policy of rental-  
 183 interruption insurance covering real property;  
 184 (c) Claims arising out of a default in the payment of sums  
 185 payable for the right to possess or occupy real property of  
 186 another person;  
 187 (d) Sums payable to terminate an agreement to possess or  
 188 occupy real property of another person;  
 189 (e) Sums payable to a mortgagor for payment or  
 190 reimbursement of expenses incurred in owning, operating, and  
 191 maintaining real property or constructing or installing  
 192 improvements on real property; or  
 193 (f) Other sums payable under an agreement relating to the  
 194 real property of another person which constitute rents under the  
 195 laws of this state other than this act.  
 196 (19) "Secured obligation" means an obligation the payment  
 197 or performance of which is secured by a security agreement.  
 198 (20) "Security agreement" means an agreement that creates  
 199 or provides for a lien.  
 200 (21) "Sign" means, with present intent to authenticate or  
 201 adopt a record:  
 202 (a) To execute or adopt a tangible symbol; or  
 203 (b) To attach to or logically associate with the record an

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204 electronic sound, symbol, or process.  
 205 (22) "State" means a state of the United States, the  
 206 District of Columbia, Puerto Rico, the United States Virgin  
 207 Islands, or any territory or insular possession subject to the  
 208 jurisdiction of the United States.  
 209 714.03 Notice and opportunity for hearing.-  
 210 (1) Except as otherwise provided in subsection (2), the  
 211 court may issue an order under this chapter only after notice  
 212 and opportunity for a hearing appropriate under the  
 213 circumstances.  
 214 (2) The court may issue an order under this chapter without  
 215 written or oral notice to the adverse party only if:  
 216 (a) It appears from the specific facts shown by affidavit  
 217 or verified pleading or motion that immediate and irreparable  
 218 injury, loss, or damage will result to the movant or that waste,  
 219 dissipation, impairment, or substantial diminution in value will  
 220 result to the subject real estate before any adverse party can  
 221 be heard in opposition; and  
 222 (b) The movant's attorney certifies in writing all efforts  
 223 that have been made to give notice to all known adverse parties,  
 224 or the reasons why such notice should not be required.  
 225 (3) Only an affidavit, a declaration or a verified  
 226 pleading, or a motion may be used to support the application for  
 227 the appointment of a receiver, unless the adverse party appears  
 228 at the hearing or has received reasonable prior notice of the  
 229 hearing. Every order appointing a receiver without notice must  
 230 be endorsed with the date and hour of entry, must be filed  
 231 forthwith in the clerk's office, must define the injury, must  
 232 state findings by the court as to why the injury may be

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irreparable, and must give the reasons why the order was granted without notice if notice was not given. The order appointing a receiver shall remain in effect until the further order of the court.

(4) An order appointing a receiver or providing for injunctive relief may not be entered unless a bond is given by the movant in an amount the court deems proper, conditioned for the payment of costs and damages sustained by the adverse party if the order is improperly entered. When any order appointing a receiver or providing for injunctive relief is issued on the pleading of a municipality or the state, or any officer, agency, or political subdivision thereof, the court may require or dispense with a bond, with or without surety, and conditioned in the same manner, having due regard for the public interest.

(5) If the court grants injunctive relief, the injunction must specify the reasons for entry, must describe in reasonable detail the act or acts restrained without reference to a pleading or another document, and must be binding on the parties to the action; on the parties' officers, agents, servants, employees, and attorneys; and on any person in active concert or participation with the parties who receives actual notice of the injunction.

(6) A party adversely affected by an order appointing receiver or for injunctive relief may move to dissolve or modify the order at any time. If a party moves to dissolve or modify, the motion shall be heard within 5 days after the movant applies for a hearing on the motion.

(7) This chapter does not displace any existing rule of procedural or judicial administration of this state governing

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service or notice, including, without limitation, Rule 1.070, Florida Rules of Civil Procedure and Rule 2.525, Florida Rules of Judicial Administration, which shall remain in full force and effect.

#### 714.04 Scope; exclusions.—

(1) This chapter applies to a receivership initiated in a court of this state for an interest in real property and any personal property related to or used in operating the real property.

(2) This chapter does not apply to:

(a) Actions in which a state agency or officer is expressly authorized by statute to seek or obtain the appointment of a receiver;

(b) Actions authorized by or commenced under federal law;

(c) Residential real property of an individual owner which is occupied by the owner, the spouse of the owner, or a child or other dependent of the owner;

(d) Property of an individual exempt from forced sale, execution, or seizure under the laws of this state; or

(e) Personal property of an individual which is used primarily for personal, family, or household purposes.

(3) This chapter does not limit the authority of a court to appoint a receiver under the laws of this state other than this chapter.

(4) This chapter does not limit an individual's homestead and exemption rights under the laws of this state or federal law.

(5) Unless displaced by a particular provision of this chapter, the principles of law and equity, including the law

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relative to capacity to contract, principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, supplement this chapter.

714.05 Power of the court.—The court that appoints a receiver under this chapter has exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property.

714.06 Appointment of receiver.—

(1) The court may appoint a receiver:

(a) Before judgment, to protect a party that demonstrates an apparent right, title, or interest in real property that is the subject of the action, if the property or its revenue-producing potential:

1. Is being subjected to or is in danger of waste, loss, substantial diminution in value, dissipation, or impairment; or

2. Has been or is about to be the subject of a voidable transaction;

(b) After judgment:

1. To carry the judgment into effect; or

2. To preserve nonexempt real property pending appeal or when an execution has been returned unsatisfied and the owner refuses to apply the property in satisfaction of the judgment;

(c) In an action in which a receiver for real property may be appointed on equitable grounds, subject to the requirements of paragraphs (a) and (b); or

(d) During the time allowed for redemption, to preserve real property sold in an execution or foreclosure sale and secure its rents to the person entitled to the rents.

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(2) In connection with the foreclosure or other enforcement of a mortgage, the court shall consider the following facts and circumstances, together with any other relevant facts, in deciding whether to appoint a receiver for the mortgaged property:

(a) Appointment is necessary to protect the property from waste, loss, substantial diminution in value, transfer, dissipation, or impairment;

(b) The mortgagor agreed in a signed record to the appointment of a receiver on default;

(c) The owner agreed, after default and in a signed record, to appointment of a receiver;

(d) The property and any other collateral held by the mortgagee are not sufficient to satisfy the secured obligation;

(e) The owner fails to turn over to the mortgagee proceeds or rents the mortgagee was entitled to collect; or

(f) The holder of a subordinate lien obtains appointment of a receiver for the property.

(3) The court may condition the appointment of a receiver without prior notice or hearing under s. 714.03 on the giving of security by the person seeking the appointment for the payment of damages, reasonable attorney fees, and costs incurred or suffered by any person if the court later concludes that the appointment was not justified. If the court later concludes that the appointment was justified and the order of appointment of the receiver becomes final and no longer subject to appeal, the court shall release the security.

714.07 Disqualification from appointment as receiver; disclosure of interest.—

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349 (1) The court may not appoint a person as receiver unless  
 350 the person submits to the court a statement under penalty of  
 351 perjury that the person is not disqualified.  
 352 (2) Except as otherwise provided in subsection (3), a  
 353 person is disqualified from appointment as receiver if the  
 354 person:  
 355 (a) Is an affiliate of a party;  
 356 (b) Has an interest materially adverse to an interest of a  
 357 party;  
 358 (c) Has a material financial interest in the outcome of the  
 359 action, other than compensation the court may allow the  
 360 receiver;  
 361 (d) Has a debtor-creditor relationship with a party; or  
 362 (e) Holds an equity interest in a party, other than a  
 363 noncontrolling interest in a publicly traded company.  
 364 (3) A person is not disqualified from appointment as  
 365 receiver solely because the person:  
 366 (a) Was appointed receiver or is owed compensation in an  
 367 unrelated matter involving a party or was engaged by a party in  
 368 a matter unrelated to the receivership;  
 369 (b) Is an individual obligated to a party on a debt that is  
 370 not in default and was incurred primarily for personal, family,  
 371 or household purposes; or  
 372 (c) Maintains with a party a deposit account, as defined in  
 373 s. 679.1021.  
 374 (4) A person seeking appointment of a receiver may nominate  
 375 a person to serve as receiver, but the court is not bound by the  
 376 nomination.  
 377 714.08 Receiver's bond; alternative security.-

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378 (1) Except as otherwise provided in subsection (2), a  
 379 receiver shall post with the court a bond that:  
 380 (a) Is conditioned on the faithful discharge of the  
 381 receiver's duties;  
 382 (b) Has one or more sureties approved by the court;  
 383 (c) Is in an amount the court specifies; and  
 384 (d) Is effective as of the date of the receiver's  
 385 appointment.  
 386 (2) The court may approve the receiver posting an  
 387 alternative security with the court, such as a letter of credit  
 388 or deposit of funds. The receiver may not use receivership  
 389 property as alternative security. Interest that accrues on  
 390 deposited funds must be paid to the receiver upon the receiver's  
 391 discharge.  
 392 (3) The court may authorize a receiver to act before the  
 393 receiver posts the bond or alternative security required by this  
 394 section if the action is necessary to prevent or mitigate  
 395 immediate injury, loss, or damage to the party who sought the  
 396 appointment of the receiver, or immediate waste, dissipation,  
 397 impairment, or substantial diminution in value to the  
 398 receivership property.  
 399 (4) A claim against a receiver's bond or alternative  
 400 security must be made not later than 1 year after the date the  
 401 receiver is discharged.  
 402 714.09 Status of receiver as lien creditor.-Upon  
 403 appointment of a receiver, the receiver has the status of a lien  
 404 creditor under:  
 405 (1) Chapter 679 as to receivership property or fixtures;  
 406 and

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(2) Chapter 695 as to receivership property that is real property.

714.10 Security agreement covering after-acquired property.—Except as otherwise provided by law other than this chapter, property that a receiver or an owner acquires after appointment of the receiver is subject to a security agreement entered into before the appointment to the same extent as if the court had not appointed the receiver.

714.11 Collection and turnover of receivership property.—

(1) Unless the court orders otherwise, on demand by a receiver:

(a) A person that owes a debt that is receivership property and is matured or payable on demand or on order shall pay the debt to or on the order of the receiver, except to the extent the debt is subject to setoff or recoupment; and

(b) Subject to subsection (3), a person that has possession, custody, or control of receivership property shall turn the property over to the receiver.

(2) A person that has notice of the appointment of a receiver and owes a debt that is receivership property may not satisfy the debt by payment to the owner.

(3) If a creditor has possession, custody, or control of receivership property and the validity, perfection, or priority of the creditor's lien on the property depends on the creditor's possession, custody, or control, the creditor may retain possession, custody, or control until the court orders adequate protection of the creditor's lien.

(4) Unless a bona fide dispute exists about a receiver's right to possession, custody, or control of receivership

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property, the court may sanction as civil contempt a person's failure to turn the property over when required by this section.

714.12 Powers and duties of receiver.—

(1) Except as limited by court order or the laws of this state other than this chapter, a receiver may:

(a) Collect, control, manage, conserve, and protect receivership property;

(b) Operate a business constituting receivership property, including preservation, use, sale, lease, license, exchange, collection, or disposition of the property in the ordinary course of business;

(c) In the ordinary course of business, incur unsecured debt and pay expenses incidental to the receiver's preservation, use, sale, lease, license, exchange, collection, or disposition of receivership property;

(d) Assert a right, claim, cause of action, or defense of the owner which relates to receivership property;

(e) Seek and obtain instruction from the court concerning receivership property, exercise of the receiver's powers, and performance of the receiver's duties;

(f) Upon subpoena, compel a person to submit to examination under oath, or to produce and permit inspection and copying of designated records or tangible things, with respect to receivership property or any other matter that may affect administration of the receivership;

(g) Engage a professional pursuant to s. 714.15;

(h) Apply to a court of another state for appointment as ancillary receiver with respect to receivership property located in that state; and

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- 465 (i) Exercise any power conferred by court order, this  
 466 chapter, or the laws of this state other than this chapter.  
 467 (2) With court approval, a receiver may:  
 468 (a) Incur debt for the use or benefit of receivership  
 469 property other than in the ordinary course of business;  
 470 (b) Make improvements to receivership property;  
 471 (c) Use or transfer receivership property other than in the  
 472 ordinary course of business pursuant to s. 714.16;  
 473 (d) Adopt or reject an executory contract of the owner  
 474 pursuant to s. 714.17;  
 475 (e) Pay compensation to the receiver pursuant to s. 714.21,  
 476 and to each professional engaged by the receiver under s.  
 477 714.15;  
 478 (f) Recommend allowance or disallowance of a claim of a  
 479 creditor pursuant to s. 714.20; and  
 480 (g) Make a distribution of receivership property pursuant  
 481 to s. 714.20.  
 482 (3) A receiver shall:  
 483 (a) Prepare and retain appropriate business records,  
 484 including a record of each receipt, disbursement, and  
 485 disposition of receivership property;  
 486 (b) Account for receivership property, including the  
 487 proceeds of a sale, lease, license, exchange, collection, or  
 488 other disposition of the property;  
 489 (c) File with the recording office of the county in which  
 490 the real property is located a copy of the order appointing the  
 491 receiver and, if a legal description of the real property is not  
 492 included in the order, the legal description;  
 493 (d) Disclose to the court any fact arising during the

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- 494 receivership which would disqualify the receiver under s.  
 495 714.07; and  
 496 (e) Perform any duty imposed by court order, this chapter,  
 497 or the laws of this state other than this chapter.  
 498 (4) The powers and duties of a receiver may be expanded,  
 499 modified, or limited by court order.  
 500 714.13 Duties of owner.—  
 501 (1) An owner shall:  
 502 (a) Assist and cooperate with the receiver in the  
 503 administration of the receivership and the discharge of the  
 504 receiver's duties;  
 505 (b) Preserve and turn over to the receiver all receivership  
 506 property in the owner's possession, custody, or control;  
 507 (c) Identify all records and other information relating to  
 508 the receivership property, including a password, authorization,  
 509 or other information needed to obtain or maintain access to or  
 510 control of the receivership property, and make available to the  
 511 receiver the records and information in the owner's possession,  
 512 custody, or control;  
 513 (d) Upon subpoena, submit to examination under oath by the  
 514 receiver concerning the acts, conduct, property, liabilities,  
 515 and financial condition of the owner or any matter relating to  
 516 the receivership property or the receivership; and  
 517 (e) Perform any duty imposed by court order, this chapter,  
 518 or the laws of this state other than this chapter.  
 519 (2) If an owner is a person other than an individual, this  
 520 section applies to each officer, director, manager, member,  
 521 partner, trustee, or other person exercising or having the power  
 522 to exercise control over the affairs of the owner.

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(3) If a person knowingly fails to perform a duty imposed by this section, the court may:

(a) Award the receiver actual damages caused by the person's failure, reasonable attorney fees, and costs; and

(b) Sanction the failure as civil contempt.

714.14 Stay; injunction.-

(1) Except as otherwise provided in subsection (4), after notice and a hearing, the court may enter an order providing for a stay, applicable to all persons, of any act, action, or proceeding:

(a) To obtain possession of, exercise control over, or enforce a judgment against all or a portion of the receivership property as defined in the order creating the stay; and

(b) To enforce a lien against all or a portion of the receivership property to the extent the lien secures a claim against the owner which arose before entry of the order. The court shall include in its order a specific description of the receivership property subject to the stay, and shall include the following language in the title of the order: "Order Staying Certain Actions to Enforce Claims against Receivership Property."

(2) Except as otherwise provided in subsection (4), the court may enjoin an act, action, or proceeding against or relating to receivership property if the injunction is necessary to protect against misappropriation of, or waste relating directly to, the receivership property.

(3) A person whose act, action, or proceeding is stayed or enjoined under this section may apply to the court for relief from the stay or injunction. The court, after a hearing on

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notice, may grant relief for cause shown.

(4) An order under subsection (1) or subsection (2) does not operate as a stay or injunction of:

(a) Any act, action, or proceeding to foreclose or otherwise enforce a mortgage by the person seeking appointment of the receiver;

(b) Any act, action, or proceeding to perfect, or maintain or continue the perfection of, an interest in receivership property;

(c) Commencement or continuation of a criminal proceeding;

(d) Commencement or continuation of an action or proceeding, or enforcement of a judgment other than a money judgment, in an action or proceeding by a governmental unit to enforce its police or regulatory power; or

(e) Establishment by a governmental unit of a tax liability against the receivership property or the owner of such receivership property, or an appeal of any such liability.

(5) The court may void an act that violates a stay or injunction under this section.

(6) The scope of the receivership property subject to the stay under subsection (1) may be modified upon request of the receiver or other person, after a hearing on notice.

(7) In connection with the entry of an order under subsection (1) or subsection (2), the court shall determine whether an additional bond or alternative security will be required as a condition to entry of the stay or injunction and, if required, direct the party requesting the stay or injunction to post a bond or alternative security as a condition for the stay or injunction to become effective.

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581 714.15 Engagement and compensation of professional.-  
 582 (1) With court approval, a receiver may engage an attorney,  
 583 an accountant, an appraiser, an auctioneer, a broker, or another  
 584 professional to assist the receiver in performing a duty or  
 585 exercising a power of the receiver. The receiver shall disclose  
 586 to the court:  
 587 (a) The identity and qualifications of the professional;  
 588 (b) The scope and nature of the proposed engagement;  
 589 (c) Any potential conflict of interest; and  
 590 (d) The proposed compensation.  
 591 (2) A person is not disqualified from engagement under this  
 592 section solely because of the person's engagement by,  
 593 representation of, or other relationship with the receiver, a  
 594 creditor, or a party. This chapter does not prevent the receiver  
 595 from serving in the receivership as an attorney, an accountant,  
 596 an auctioneer, or a broker when authorized by law.  
 597 (3) A receiver or professional engaged under subsection (1)  
 598 shall file with the court an itemized statement of the time  
 599 spent, work performed, and billing rate of each person that  
 600 performed the work and an itemized list of expenses. The  
 601 receiver shall pay the amount approved by the court.  
 602 714.16 Use or transfer of receivership property not in  
 603 ordinary course of business.-  
 604 (1) For the purposes of this section, the term "good faith"  
 605 means honesty in fact and the observance of reasonable  
 606 commercial standards of fair dealing.  
 607 (2) Before judgment is entered with respect to the  
 608 receivership property, with court approval after notice to all  
 609 parties with an interest in the property, including all lien

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610 holders, and a hearing, a receiver may use or transfer by sale,  
 611 lease, license, exchange, or other disposition receivership  
 612 property other than in the ordinary course of business only if  
 613 the owner of the property:  
 614 (a) After the commencement of the action in which the  
 615 receiver is appointed, expressly consents to the receiver's  
 616 proposed use or transfer of the receivership property, and the  
 617 receiver notes the property owner's express consent in the  
 618 motion to approve the proposed use or transfer; or  
 619 (b) Before or at the hearing on the receiver's motion to  
 620 approve the use or transfer of the receivership property, fails  
 621 to object thereto after the receiver in good faith has provided  
 622 reasonable advance written notice to the property owner of the  
 623 proposed use or transfer, and the receiver demonstrates in the  
 624 motion that the proposed use or transfer is necessary to prevent  
 625 waste, loss, substantial diminution in value, dissipation, or  
 626 impairment of the property or its revenue-producing potential or  
 627 to prevent a voidable transaction involving the property.  
 628 Service of notice to lien holders who are not parties to the  
 629 action must be made as provided in chapter 48 for service of  
 630 original process. If service cannot be carried out in such  
 631 manner, upon authorization by court order, the receiver may  
 632 effect service of notice on the nonparty lien holder pursuant to  
 633 chapter 49 or as otherwise ordered by the court.  
 634 (3) After judgment is entered against the property owner  
 635 and with court approval, a receiver may use or transfer  
 636 receivership property other than in the ordinary course of  
 637 business to carry the judgment into effect or to preserve  
 638



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nonexempt real property pending appeal or when an execution has been returned unsatisfied and the owner refuses to apply the property in satisfaction of the judgment.

(4) The court may order that a transfer of receivership property under this section is free and clear of any liens on the property at the time of the transfer. In such case, any liens on the property, which were valid at the time of the transfer but extinguished by the transfer, attach to the proceeds of the transfer with the same validity, perfection, and priority the liens had on the property immediately before the transfer, even if the proceeds are not sufficient to satisfy all obligations secured by the liens.

(5) A transfer under subsection (3) may occur by means other than a public auction sale. A creditor holding a valid lien on the property to be transferred may purchase the property and offset against the purchase price part or all of the allowed amount secured by the lien if the creditor tenders funds sufficient to satisfy in full the reasonable expenses of transfer and the obligation secured by any senior lien extinguished by the transfer.

(6) A reversal or modification of an order approving a transfer under subsection (3) does not affect the validity of the transfer to a person that acquired the property in good faith or revive against the person any lien extinguished by the transfer, whether the person knew before the transfer of the request for reversal or modification, unless the court stayed the order before the transfer.

714.17 Executory contract.-

(1) For the purposes of this section, the term "timeshare

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interest" has the same meaning as in s. 721.05(36).

(2) Except as otherwise provided in subsection (8), with court approval, a receiver may adopt or reject an executory contract of the owner relating to receivership property. The court may condition the receiver's adoption and continued performance of the contract on terms appropriate under the circumstances. If the receiver does not request court approval to adopt or reject the contract within a reasonable time after the receiver's appointment, the receiver is deemed to have rejected the contract.

(3) A receiver's performance of an executory contract before court approval under subsection (2) of its adoption or rejection is not an adoption of the contract and does not preclude the receiver from seeking approval to reject the contract.

(4) A provision in an executory contract which requires or permits a forfeiture, modification, or termination of the contract because of the appointment of a receiver or the financial condition of the owner does not affect a receiver's power under subsection (2) to adopt the contract.

(5) A receiver's right to possess or use receivership property pursuant to an executory contract terminates on rejection of the contract under subsection (2). Rejection is a breach of the contract effective immediately before appointment of the receiver. A claim for damages for rejection of the contract must be submitted by the later of:

(a) The time set for submitting a claim in the receivership; or

(b) Thirty days after the court approves the rejection.

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(6) If at the time a receiver is appointed, the owner has the right to assign an executory contract relating to receivership property under the laws of this state other than this chapter, the receiver may assign the contract with court approval.

(7) If a receiver rejects an executory contract for the sale of receivership property that is real property in possession of the purchaser or a real-property timeshare interest pursuant to subsection (2), the purchaser may:

(a) Treat the rejection as a termination of the contract, and in that case the purchaser has a lien on the property for the recovery of any part of the purchase price the purchaser paid; or

(b) Retain the purchaser's right to possession under the contract. If the purchaser retains his or her right to possession pursuant to this paragraph, the purchaser must continue to perform all obligations arising under the contract and may offset any damages caused by nonperformance of an obligation of the owner after the date of the rejection, but the purchaser does not have a right or claim against other receivership property or the receiver on account of the damages.

(8) A receiver may not reject an unexpired lease of real property under which the owner is the landlord if:

(a) The tenant occupies the leased premises as the tenant's primary residence;

(b) The receiver was appointed at the request of a person other than a mortgagee; or

(c) The receiver was appointed at the request of a mortgagee and;

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1. The lease is superior to the lien of the mortgage;

2. The tenant has an enforceable agreement with the mortgagee or the holder of a senior lien under which the tenant's occupancy will not be disturbed as long as the tenant performs its obligations under the lease;

3. The mortgagee has consented to the lease, either in a signed record or by its failure to timely object that the lease violated the mortgage; or

4. The terms of the lease were commercially reasonable at the time the lease was agreed to and the tenant did not know or have reason to know that the lease violated the mortgage.

714.18 Defenses and immunities of receiver.-

(1) A receiver is entitled to all defenses and immunities provided by the laws of this state other than this chapter for an act or omission within the scope of the receiver's appointment.

(2) A receiver may be sued personally for an act or omission in administering receivership property only with approval of the court that appointed the receiver.

714.19 Interim report of receiver.-A receiver may file or, if ordered by the court, shall file an interim report that includes:

(1) The activities of the receiver since appointment or a previous report;

(2) Receipts and disbursements, including a payment made or proposed to be made to a professional engaged by the receiver;

(3) Receipts and dispositions of receivership property;

(4) Fees and expenses of the receiver and, if not filed separately, a request for approval of payment of the fees and

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expenses; and

(5) Any other information required by the court.

714.20 Notice of appointment; claim against receivership; distribution to creditors.-

(1) Except as otherwise provided in subsection (6), a receiver shall give notice of appointment of the receiver to creditors of the owner by:

(a) Deposit for delivery through first-class mail or other commercially reasonable delivery method to the last known address of each creditor; and

(b) Publication as directed by the court.

(2) Except as otherwise provided in subsection (6), the notice required under subsection (1) must specify the date by which each creditor holding a claim against the owner which arose before appointment of the receiver must submit the claim to the receiver. The date specified must be at least 90 days after the later of notice under paragraph (1)(a) or last publication under paragraph (1)(b). The court may extend the period for submitting the claim. Unless the court orders otherwise, a claim that is not timely submitted is not entitled to a distribution from the receivership.

(3) A claim submitted by a creditor under this section must:

(a) State the name and address of the creditor;

(b) State the amount and basis of the claim;

(c) Identify any property securing the claim;

(d) Be signed by the creditor under penalty of perjury; and

(e) Include a copy of any record on which the claim is based.

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(4) An assignment by a creditor of a claim against the owner is effective against the receiver only if the assignee gives timely notice of the assignment to the receiver in a signed record.

(5) At any time before entry of an order approving a receiver's final report, the receiver may file with the court an objection to a claim of a creditor, stating the basis for the objection. The court shall allow or disallow the claim according to the laws of this state other than this chapter.

(6) If the court concludes that receivership property is likely to be insufficient to satisfy claims of each creditor holding a perfected lien on the property, the court may order that:

(a) The receiver need not give notice under subsection (1) of the appointment to all creditors of the owner, but only such creditors as the court directs; and

(b) Unsecured creditors need not submit claims under this section.

(7) Subject to s. 714.21:

(a) A distribution of receivership property to a creditor holding a perfected lien on the property must be made in accordance with the creditor's priority under the laws of this state other than this chapter; and

(b) A distribution of receivership property to a creditor with an allowed unsecured claim must be made as the court directs according to the laws of this state other than this chapter.

714.21 Fees and expenses.-

(1) The court may award a receiver from receivership

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property the reasonable and necessary fees and expenses of performing the duties of the receiver and exercising the powers of the receiver.

(2) The court may order one or more of the following to pay the reasonable and necessary fees and expenses of the receivership, including reasonable attorney fees and costs:

(a) A person that requested the appointment of the receiver, if the receivership does not produce sufficient funds to pay the fees and expenses; or

(b) A person whose conduct justified or would have justified the appointment of the receiver under s. 714.06(1)(a).

714.22 Removal of receiver; replacement; termination of receivership.—

(1) The court may remove a receiver for cause.

(2) The court shall replace a receiver that dies, resigns, or is removed.

(3) If the court finds that a receiver that resigns or is removed, or the representative of a receiver that is deceased, has accounted fully for and turned over to the successor receiver all receivership property and has filed a report of all receipts and disbursements during the service of the replaced receiver, the replaced receiver is discharged.

(4) The court may discharge a receiver and terminate the court's administration of the receivership property if the court finds that appointment of the receiver was improvident or that the circumstances no longer warrant continuation of the receivership. If the court finds that the appointment was sought wrongfully or in bad faith, the court may assess against the person that sought the appointment:

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(a) The fees and expenses of the receivership, including reasonable attorney fees and costs; and

(b) Actual damages caused by the appointment, including reasonable attorney fees and costs.

714.23 Final report of receiver; discharge.—

(1) Upon completion of a receiver's duties, the receiver shall file a final report including:

(a) A description of the activities of the receiver in the conduct of the receivership;

(b) A list of receivership property at the commencement of the receivership and any receivership property received during the receivership;

(c) A list of disbursements, including payments to professionals engaged by the receiver;

(d) A list of dispositions of receivership property;

(e) A list of distributions made or proposed to be made from the receivership for creditor claims;

(f) If not filed separately, a request for approval of the payment of fees and expenses of the receiver; and

(g) Any other information required by the court.

(2) If the court approves a final report filed under subsection (1) and the receiver distributes all receivership property, the receiver is discharged.

714.24 Receivership in another state; ancillary proceeding.—

(1) The court may appoint a receiver appointed in another state, or that person's nominee, as an ancillary receiver with respect to property located in this state or subject to the jurisdiction of the court for which a receiver could be

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871 appointed under this chapter, if:

872 (a) The person or nominee would be eligible to serve as  
873 receiver under s. 714.07; and

874 (b) The appointment furthers the person's possession,  
875 custody, control, or disposition of property subject to the  
876 receivership in the other state.

877 (2) The court may issue an order that gives effect to an  
878 order entered in another state appointing or directing a  
879 receiver.

880 (3) Unless the court orders otherwise, an ancillary  
881 receiver appointed under subsection (1) has the rights, powers,  
882 and duties of a receiver appointed under this chapter.

883 714.25 Effect of enforcement by mortgagee.—A request by a  
884 mortgagee for the appointment of a receiver, the appointment of  
885 a receiver, or the application by a mortgagee of receivership  
886 property or proceeds to the secured obligation does not:

887 (1) Make the mortgagee a mortgagee in possession of the  
888 real property;

889 (2) Make the mortgagee an agent of the owner;

890 (3) Constitute an election of remedies which precludes a  
891 later action to enforce the secured obligation;

892 (4) Make the secured obligation unenforceable;

893 (5) Limit any right available to the mortgagee with respect  
894 to the secured obligation; or

895 (6) Constitute an action under chapter 702.

896 714.26 Uniformity of application and construction.—In  
897 applying and construing this chapter, consideration must be  
898 given to the need to promote uniformity of the law with respect  
899 to its subject matter among states that have enacted a similar

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900 law.

901 714.27 Relation to electronic signatures in global and  
902 national commerce act.—This act modifies, limits, or supersedes  
903 the Electronic Signatures in Global and National Commerce Act,  
904 15 U.S.C. ss. 7001 et seq., but does not modify, limit, or  
905 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or  
906 authorize electronic delivery of any of the notices described in  
907 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

908 714.28 Transition.—This chapter does not apply to a  
909 receivership for which the receiver was appointed before July 1,  
910 2020.

911 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-4-20  
Meeting Date

660  
Bill Number (if applicable)

Topic UCRERA

Amendment Barcode (if applicable)

Name Keith Bell

Job Title Attorney

Address 106 E. College Ave. Ste 600  
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City State Zip

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Business Law Section, Florida Bar

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

**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.)

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

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BILL: SB 850

INTRODUCER: Senator Pizzo

SUBJECT: Exposure of Sexual Organs

DATE: February 3, 2020

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stokes	Jones	CJ	<b>Favorable</b>
2. McMillan	McKay	CM	<b>Favorable</b>
3. _____	_____	RC	_____

---

## I. Summary:

SB 850 amends s. 800.03, F.S., to specifically permit being naked in public while on clothing-optional beaches.

Section 800.03, F.S., provides that it is unlawful for a person to expose or exhibit his or her sexual organs in a vulgar or indecent manner while in public or private view. A mother who is breastfeeding does not violate this section.

The bill takes effect July 1, 2020.

## II. Present Situation:

Florida has multiple clothing-optional beaches along the east coast. Top clothing-optional locations include Haulover Beach, Blind Creek Beach, Playalinda and Apollo Beaches.<sup>1</sup> While it is permissible to be naked at clothing-optional beaches, it is unlawful to engage in sexual activity. Many of the clothing-optional beaches advise that individuals conducting themselves in a lewd manner will be arrested.<sup>2</sup>

There are multiple ways in which a beach may be recognized as clothing-optional. For example, St. Lucie County commissioners are expected to vote on a county ordinance to officially

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<sup>1</sup> *Top Nude Beaches in Florida*, Visit Florida, Carlos Harrison, available at: <https://www.visitflorida.com/en-us/florida-beaches/nude.html> (last visited Feb 3, 2020).

<sup>2</sup> *Frequently Asked Questions*, Haulover Beach, available at: <https://www.hauloverbeach.org/faq/> (last visited Feb. 3, 2020); *Naturist Beach Etiquette for Blind Creek Beach*, Treasure Coast Naturists, available at: <http://www.treasurecoastnaturists.org/beach-etiquette.html> (last visited Feb. 3, 2020).

recognize Blind Creek Beach as a clothing-optional beach.<sup>3</sup> According to the American Association for Nude Recreation Florida Region, nude tourism has a \$7.4 billion annual economic impact for Florida.<sup>4</sup>

### **Exposure of sexual organs**

Section 800.03, F.S., provides that it is unlawful for a person to expose or exhibit his or her sexual organs in a vulgar or indecent manner while in public or private view. A mother who is breastfeeding does not violate this section.

Courts have consistently held that being naked alone is not sufficient to violate s. 800.03, F.S. To trigger a violation, there must also be a “lascivious” exhibition of the sexual organs.<sup>5</sup> Some counties have enacted county ordinances which specifically address public nudity.<sup>6</sup> Similarly, the Department of Environmental Protection (DEP) has enacted a rule that specifically prohibits nudity in parks.<sup>7</sup> These local ordinances or rules may further restrict nudity in their respective jurisdictions.

### **III. Effect of Proposed Changes:**

The bill amends s. 800.03, F.S., to specifically permit being naked in public while on clothing-optional beaches.

The bill takes effect July 1, 2020.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>3</sup> St. Lucie County could be a step closer to having official nude beach, Al Pefley, CBS12 News January 7th 2020, available at: <https://cbs12.com/news/local/st-lucie-county-could-be-a-step-closer-to-having-official-nude-beach> (last visited Feb. 3, 2020).

<sup>4</sup> The Economic Impact of Nude Tourism and Recreation in Florida, *American Association for Nude Recreation Florida Region*, p. i., February 7, 2017. On file with Senate Committee on Criminal Justice.

<sup>5</sup> See *Hoffman v. Carson*, 250 So. 2d 891 (Fla. 1971); *Goodmakers v. State*, 450 So. 2d 888 (Fla. 2d. DCA, 1984); *Duvallon v. State*, 404 So. 2d 196 (Fla. 1st DCA, 1981).

<sup>6</sup> Brevard County, Florida, Municipal Code art. II., s. 74-30.

<sup>7</sup> Rule 62D-2.014(7)(a), F.A.C., states that in every area of a park including bathing areas no individual shall expose the human, male or female genitals, pubic area, the entire buttocks or female breast below the top of the nipple, with less than fully opaque covering.



D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 800.03 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Pizzo

38-01223-20

2020850\_\_

A bill to be entitled

An act relating to the exposure of sexual organs;  
amending s. 800.03, F.S.; specifying that an exception  
to the unlawful exposure or exhibition of an  
individual's sexual organs in certain places includes  
clothing-optional beaches; making technical changes;  
providing an effective date.

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

Section 1. Section 800.03, Florida Statutes, is amended to  
read:

800.03 Exposure of sexual organs.—

(1) It is unlawful for an individual to expose or exhibit  
his or her ~~one's~~ sexual organs in public or on the private  
premises of another, or so near thereto as to be seen from such  
private premises, in a vulgar or indecent manner, or to be naked  
in public except in any place provided or set apart for that  
purpose, including, but not limited to, clothing-optional  
beaches. A mother breastfeeding her baby does not, under any  
circumstances, violate this subsection.

(2) An individual who violates subsection (1) commits  
~~Violation of this section is~~ a misdemeanor of the first degree,  
punishable as provided in s. 775.082 or s. 775.083. ~~A mother's~~  
~~breastfeeding of her baby does not under any circumstance~~  
~~violate this section.~~

Section 2. This act shall take effect July 1, 2020.

**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.)

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

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BILL: SR 1704

INTRODUCER: Senator Flores

SUBJECT: Taiwan

DATE: February 3, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Argote	McKay	CM	<b>Favorable</b>
2.			RC	

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## **I. Summary:**

SR 1704 recognizes the economic and cultural ties between Florida and the Republic of China, also known as Taiwan, and expresses support for future opportunities of international trade.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

## **II. Present Situation:**

Taiwan is an island located in Eastern Asia and has a population of roughly 23.5 million.<sup>1</sup> In comparison to the United States, Taiwan is somewhat smaller than the combined area of Maryland and Delaware.<sup>2</sup> Taiwan is a semi-presidential republic and operates in a capitalist economy that is driven primarily by industrial manufacturing and the exports of electronics, machinery, and crude petroleum.<sup>3</sup>

### **1979 Taiwan Relations Act**

In 1979, the U.S. recognized the Government of the People's Republic of China as the sole legal government of China, thereby acknowledging Taiwan as a part of China.<sup>4</sup> The 1979 Taiwan Relations Act authorizes the continuation of commercial, cultural, and other relations between the U.S. and Taiwan to help preserve peace, security, and stability in the Western Pacific.<sup>5</sup> The 41<sup>st</sup> anniversary of The 1979 Taiwan Relations Act will be celebrated in 2020.

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<sup>1</sup> Central Intelligence Agency, *The World Factbook, Taiwan, East & Southeast Asia*, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/tw.html> (last visited February 3, 2020)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> United States Department of State, *U.S. Relations with Taiwan Fact Sheet*, available at <https://www.state.gov/r/pa/ei/bgn/35855.htm> (last visited February 3, 2020).

<sup>5</sup> American Institute in Taiwan, *Taiwan Relations Act (1979)*, available at <https://www.ait.org.tw/our-relationship/policy-history/key-u-s-foreign-policy-documents-region/taiwan-relations-act/> (last visited February 3, 2020)

## Bilateral Relations

The United States has upheld and furthered its commercial relations with Taiwan since 1979. Taiwan is the United States' tenth largest trading partner and Florida's sixth largest export market in Asia. This partnership garnered Florida roughly 8,000 jobs and \$944.3 million in trade and investment ties in 2018.<sup>6</sup> Taiwan enjoys Export-Import Bank financing, Overseas Private Investment Corporation guarantees, normal trade relation status, and ready access to U.S. markets.<sup>7</sup> As of 2013, Taiwanese corporations employed more than 12,000 workers in the U.S. with total compensation equaling over \$1 billion.<sup>8</sup>

Taiwan partakes in more than 50 international organizations and holds membership status in organizations that do not call for statehood as a condition of membership. The Legislature encourages and supports Taiwan's participation in international organizations, including its bid for observer status in the International Criminal Police Organization (INTERPOL) and the World Health Assembly, which promote ideals in which the U.S. shares.

Sister-state relations exist between the State of Florida and the Republic of China.<sup>9</sup> Tsai Ing-wen, the first female president of Taiwan, visited Florida in June 2016 to meet with Senator Marco Rubio and discuss ways to strengthen the security and economic relationship between the U.S. and Taiwan, in which Florida plays an important role.<sup>10</sup> The Speaker of Tainan City, Kuo Hsin-liang, along with his delegation, will be visiting Florida in 2020 to further enhance the bilateral relationship between the Republic of China and Florida.

### III. Effect of Proposed Changes:

The resolution recognizes the relationship and shared interests between the people of Taiwan and the U.S. and further expresses the Senate's support for future opportunities of international trade with Taiwan. A copy of this resolution, with the Seal of the Senate affixed, will be transmitted to President Tsai Ing-wen and Speaker Kuo Hsin-liang through the Taipei Economic and Cultural Office in Miami and the Executive Office of the Governor as a tangible token of the sentiments of the Florida Senate.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

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<sup>6</sup> City of Jacksonville, *Proclamation (2019)*, available at [https://www.coj.net/mayor/docs/proclamations/2019/10-oct-2019/09-16-19-proc-national-day-of-taiwan-\(october-10\).aspx](https://www.coj.net/mayor/docs/proclamations/2019/10-oct-2019/09-16-19-proc-national-day-of-taiwan-(october-10).aspx) (last visited February 3, 2020)

<sup>7</sup> United States Department of State, *U.S. Relations with Taiwan Fact Sheet*, available at <https://www.state.gov/r/pa/ei/bgn/35855.htm> (last visited February 3, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> The following foster the sister-state relations between Florida and the Republic of China: Miami-Dade County and New Taipei City; the Port of Miami and the Port of Kaohsiung; Tainan City the City of Orlando; and Kaohsiung City and the City of Fort Lauderdale, the City of Miami, and the City of Pensacola.

<sup>10</sup> Office of Senator Marco Rubio, *Rubio Welcomes Taiwanese President to Miami* (2016), available at <https://www.rubio.senate.gov/public/index.cfm/press-releases?ID=5061149F-F0E3-4FF5-B4AC-C6E2AD09B785> (last visited February 3, 2020).

**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:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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**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.)

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

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BILL: SB 1140

INTRODUCER: Senator Gruters

SUBJECT: Public Accountancy

DATE: January 27, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<b>Favorable</b>
2.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**I. Summary:**

SB 1140 permits a nonresident Florida-licensed certified public accountant (CPA) to renew his or her license if the CPA has complied with the continuing education requirements in the state in which his or her office is located. However, a nonresident CPA must satisfy Florida's ethics-related continuing education requirements. If the state in which the nonresident CPA's office is located does not have continuing education requirements as a condition for license renewal, the nonresident CPA must comply with the continuing education requirements in Florida.

The bill permits a CPA to place his or her license in a retired status. If a licensee on retired status reenters the workforce in a position that has an association with accounting or any of the CPA services, the licensee automatically loses her or his retired status. A retired CPA may continue to be engaged in specific activities but may not offer professional services that require the use of the CPA title. A retired CPA may reactivate her or his license in a conditional manner determined by the Florida Board of Accountancy, which must require the payment of fees and the completion of any required continuing education.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Certified Public Accountants**

The Florida Board of Accountancy (board) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating and licensing the more than 38,000 active and 2,700 inactive CPAs and more than 5,700 accounting firms in Florida.<sup>1</sup> The Division of Certified

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<sup>1</sup> Florida Department of Business and Professional Regulation, *Fiscal Year 2018-2019 Annual Report*, 12, available at [http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport\\_FY1819.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf) (last visited Jan. 27, 2020).

Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.<sup>2</sup>

A certified public accountant is an individual who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.<sup>3</sup>

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.<sup>4</sup> To engage in the practice of public accounting,<sup>5</sup> an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

### **CPA Licensing**

Section 473.308, F.S., provides licensing requirements for CPAs. To be licensed as a certified public accountant, a person must 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.<sup>6</sup> CPA licenses must be renewed on a biennial basis through procedures adopted by the DBPR.<sup>7</sup>

### ***License by Endorsement***

Individuals who are licensed as a CPA in another state or territory, as well as individuals who are not licensed in another state or territory but have met certain requirements, may apply to the board for licensure by endorsement.<sup>8</sup> If the applicant is not licensed and has never been licensed in another state or territory, the applicant must:<sup>9</sup>

- Meet the education, work experience, and good moral character requirements;
- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida CPA during the 2 years immediately preceding the application for licensure by endorsement.

If the applicant is licensed in another state or territory, the applicant must:<sup>10</sup>

- Have satisfied licensing criteria that were substantially equivalent to the licensure criteria in Florida at the time the license was issued; or

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<sup>2</sup> Section 473.303, F.S.

<sup>3</sup> See s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

<sup>4</sup> Section 473.302(8), F.S.

<sup>5</sup> Section 473.302(8), F.S., defines the terms “practice of,” “practicing public accountancy,” and “public accounting”

<sup>6</sup> Sections 473.308(2)-(5), F.S.

<sup>7</sup> Section 473.311(2), F.S.

<sup>8</sup> Section 473.308(7), F.S.

<sup>9</sup> Section 473.308(7)(a), F.S.

<sup>10</sup> Section 473.308(7)(b), F.S.



- Have passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state and meet the education, work experience, and good moral character requirements, if the criteria for issuance of such a license were not substantially equivalent to Florida's criteria; or
- Have held a valid license in another state or territory for at least 10 years before applying for a license in Florida, have passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state, and meet the education, work experience, and good moral character requirements; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida CPA during the 2 years immediately preceding the application for licensure by endorsement.

### ***Continuing Education***

CPAs, as part of the license renewal procedure, are required to submit proof satisfactory to the board that, during the 2 years prior to the application for renewal, they have successfully completed not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board. The board has the authority to prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.<sup>11</sup>

Not less than 10 percent of the total continuing education hours required by the board shall be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.<sup>12</sup>

Not less than five percent of the continuing education shall be in ethics applicable to the practice of public accounting, including a review of the provisions of ch. 455, F.S., relating to the regulations of businesses and professions, ch. 473, F.S., and the related administrative rules. This requirement must be administered by providers approved by the board.

### ***Inactive Licenses***

Section 473.313(1), F.S., permits Florida-licensed CPAs to request that their license be placed on inactive status. Licenses can also be placed on inactive status for failing to complete, or failure to report completion of, the continuing education requirements. Section 473.313(2), F.S., authorizes the board to adopt rules establishing fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.<sup>13</sup>

A CPA may reactivate an inactive license by paying the DPBR a \$250 application fee<sup>14</sup> and receiving certification that the CPA has completed the education requirements.<sup>15</sup>

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<sup>11</sup> Section 473.312(1)(a), F.S.

<sup>12</sup> Section 473.312(1)(b), F.S.

<sup>13</sup> See Fla. Admin. Code R. 61H1-33.006 (2019).

<sup>14</sup> Fla Admin. Code R. 61H1-31.006 (2019).

<sup>15</sup> Section 473.313(2), F.S.

If a license that was placed on inactive status for failure to report completed continuing education requirements is inactive on January 1, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.<sup>16</sup>

### **III. Effect of Proposed Changes:**

#### **Licensure by Endorsement**

The bill amends s. 473.308(7)(a)1., F.S., referring to applicants for licensure by endorsement who are not licensed in another state, to change the term “another” state to “any” state. The bill does not make the same change throughout s. 473.308, F.S., where the term “another” state is used in several instances.

As amended by the bill, s. 473.308(7)(a)1., F.S., appears to refer to persons who have not been licensed as a CPA in *any* state, including Florida, instead of persons who have not been licensed in any state *aside* from Florida. This change in language would prevent a previously-licensed Florida CPA from using the licensure by endorsement process to regain a license.

#### **Continuing Education**

The bill creates s. 473.311(1)(b), F.S., permitting a nonresident licensee seeking a renewal of his or her Florida license to comply with the continuing education requirements of the state in which his or her office is located. Under the bill, a licensee must still complete no less than 5 percent of the total continuing education hours required in ethics applicable to public accounting as administered by providers approved by the board.

The nonresident licensee must comply with all of Florida’s continuing education requirements if the state in which the nonresident licensee’s office is located does not have continuing education requirements as a condition for license renewal.

The bill also amends s. 473.312(1)(c), F.S., to require that a majority of the continuing education hours in ethics include a review of the provisions of the provisions of ch. 455, F.S., relating to the regulations of businesses and professions, ch. 473, F.S., and the related administrative rules.

#### **Retired Status**

Under current law, a CPA licensed in Florida is not permitted to place his or license in a retired status. The bill amends s. 473.313, F.S., to permit a Florida-licensed CPA to submit an application to the DBPR to place his or her license in a retired status if the licensee:

- Is at least 55 years of age;
- Holds a current active or inactive license; and
- Is in good standing and not the subject of any sanction or disciplinary action.

Under the bill, a licensee in retired status that reenters the workforce in a position associated with accounting, or any related services defined in ss. 473.302(8)(a), (c), and (d), F.S., automatically loses his or her retired status. A CPA on retired status may continue to provide services utilizing

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<sup>16</sup> Section 473.313(3), F.S.

accounting skills, as well as tax, management advisory, or consulting services, as defined in s. 473.302(8)(b), F.S., but may not provide certain accounting services that involve expressing an opinion on or preparing financial statements, as defined in ss. 473.302(8)(a), (c), and (d), F.S.

Retired licensees are permitted to use the title of “retired CPA” but may not offer or render professional services that require her or his signature and use of the CPA title, regardless of whether the word “retired” is attached to such title.

The bill authorizes a retired licensee to serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in a government-sponsored business mentoring program, and participate in an advisory role for a similar charitable, civic, or nonprofit organizations. A retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the retired licensee to cover such expenses as allowed by law.

Retired licensees are not required to maintain the continuing education requirements set forth in ch. 473, F.S.

A retired licensee must affirm in writing his or her understanding of the limited types of activities in which he or she may engage while in retired status and that he or she has a professional duty to ensure that he or she holds the professional competencies necessary to participate in such activities.

A retired licensee may reactivate his or her license in a conditional manner determined by the board, which must require the payment of fees and the completion of any required continuing education.

#### **Effective Date**

The bill takes effect July 1, 2020.

#### **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:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Section 19(a), Article VII of the State Constitution limits the authority of the legislature to enact legislation that imposes a new state tax or fee by requiring such legislation to be approved by a 2/3 vote in each chamber of the legislature. Section 19(e), Article VII of the Florida Constitution provides that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.

SB 1140 permits a licensed CPA in retired status to reactivate his or her license in a conditional manner determined by the Florida Board of Accountancy. The bill requires that the conditions for the reactivation of a license in retired status must include the payment of fees. The board currently has the authority to impose a fee for the reactivation of an inactive license. Because the bill requires the board to impose a fee of an unknown amount for the reactivation of a license in retired status, it is unclear if the voting and separate bill requirements found in the State Constitution apply to the bill.

B. Private Sector Impact:

Retired CPAs wishing to reactivate their licenses will be subject to reactivation fees in an amount determined by the board.

C. Government Sector Impact:

The DBPR has stated that the technological modifications required to administer the bill can be made with existing resources. Other potential expenditures required by the DBPR are indeterminate but expected to be accommodated with existing resources.

The Revenue Estimating Conference has not yet met regarding the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill creates s. 473.311(1)(b), F.S., permitting a nonresident licensee seeking a renewal of his or her Florida license to comply with the continuing education requirements of the *state* in which his or her office is located. It is unclear if these new provisions are intended to apply to territories as well as states. Existing provisions governing the renewal of CPA licenses in ch. 473, F.S., refer to other states *and* territories.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 473.308, 473.311, 473.312, and 473.313.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Gruters

23-01202A-20

20201140\_\_

A bill to be entitled

An act relating to public accountancy; amending s. 473.308, F.S.; requiring certain applicants to not be licensed in any state or territory in order to be licensed by endorsement; amending s. 473.311, F.S.; providing license renewal requirements for nonresident licensees; amending s. 473.312, F.S.; requiring that a majority of the hours required for continuing education include specific content; amending s. 473.313, F.S.; authorizing certain Florida certified public accountants to apply to the Department of Business and Professional Regulation to have their license placed in a retired status; providing requirements for such conversion; providing requirements and prohibitions for retired licensees; authorizing retired licensees to use a specified title under certain circumstances; providing that retired licensees are not required to maintain continuing education requirements; authorizing retired licensees to reactivate their licenses if certain conditions are met; defining the term "retired licensee"; providing an effective date.

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

Section 1. Subsection (7) of section 473.308, Florida Statutes, is amended to read:  
473.308 Licensure.—

(7) The board shall certify as qualified for a license by

Page 1 of 7

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

23-01202A-20

20201140\_\_

endorsement an applicant who:

(a)1. Is not licensed and has not been licensed in any ~~another~~ state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and

2. Has completed such continuing education courses as the board deems appropriate, within the limits for each applicable 2-year period as set forth in s. 473.312, but at least such courses as are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement; or

(b)1.a. 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 were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

b. Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of sub-subparagraph a.; has met the requirements of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

c. Holds a valid license to practice public accounting issued by another state or territory of the United States for at

Page 2 of 7

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

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least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character; and

2. Has completed continuing education courses that are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state during the 2 years immediately preceding her or his application for licensure by endorsement.

Section 2. Subsection (1) of section 473.311, Florida Statutes, is amended to read:

473.311 Renewal of license.—

(1) (a) The department shall renew a license issued under s. 473.308 upon receipt of the renewal application and fee and upon certification by the board that the Florida certified public accountant has satisfactorily completed the continuing education requirements of s. 473.312.

(b) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the continuing education requirements in s. 473.312, except for the requirements in s. 473.312(1)(c), if the licensee has complied with the continuing education requirements applicable in the state in which his or her office is located. If the state in which the nonresident licensee's office is located has no continuing education requirements for license renewals, the nonresident licensee must comply with the continuing education requirements in s. 473.312.

Section 3. Paragraph (c) of subsection (1) of section

23-01202A-20

20201140\_\_

473.312, Florida Statutes, is amended to read:

473.312 Continuing education.—

(1)

(c) Not less than 5 percent of the total hours required by the board shall be in ethics applicable to the practice of public accounting. This requirement shall be administered by providers approved by the board and a majority of the hours shall include a review of the provisions of chapter 455 and this chapter and the related administrative rules.

Section 4. Section 473.313, Florida Statutes, is amended to read:

473.313 Inactive status and retired status.—

(1) A Florida certified public accountant may request that her or his license be placed in an inactive status by making application to the department. The board may prescribe by rule fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.

(a)(2) A license that has become inactive under this subsection (1) or for failure to complete the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The maximum continuing education requirements for reactivating a license are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive or delinquent.

(b)(3) A license that is delinquent for failure to report

23-01202A-20

20201140

completion of the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. Reactivation requires the payment of an application fee as determined by the board and certification by the Florida certified public accountant that the applicant satisfactorily completed the continuing education requirements set forth under s. 473.311. If the license is delinquent on January 1 because of failure to report completed continuing education requirements, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.

(c)(4) Any Florida certified public accountant holding an inactive license may be permitted to reactivate such license in a conditional manner. The conditions of reactivation shall require the payment of fees and the completion of required continuing education.

(d)(5) Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an amount determined by rule of the board. The board shall require that the individual meet all continuing education requirements as provided in subsection (2), pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

(2) A Florida certified public accountant who is at least 55 years of age and currently holds an active or inactive

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license under this chapter may apply to the department for her or his license to be placed in a retired status. The application must be prescribed by the board and must state that the applicant has no association with accounting or any of the services described in s. 473.302(8)(a), (c), or (d). If a licensee who has been granted retired status reenters the workforce in a position that has an association with accounting or any of the services described in s. 473.302(8)(a), (c), or (d), the licensee automatically loses her or his retired status except as provided in paragraph (a).

(a) A retired licensee who serves without compensation on a board of directors or board of trustees, provides volunteer tax preparation services, participates in a government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or the Small Business Administration's SCORE program, or participates in an advisory role for a similar charitable, civic, or other nonprofit organization shall continue to be eligible for retired status.

(b) The board shall require a retired licensee to affirm in writing her or his understanding of the limited types of activities in which she or he may engage while in retired status and that she or he has a professional duty to ensure that she or he holds the professional competencies necessary to participate in such activities.

(c) Licensees may convert their license to retired status only if they hold a license in good standing and are not the subject of any sanction or disciplinary action.

(d) A retired licensee may accept routine reimbursement for



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20201140\_\_

175 actual costs of travel and meals associated with volunteer  
176 services or de minimis per diem amounts paid to the licensee to  
177 cover such expenses as allowed by law.

178 (e) A retired licensee may use the title of "retired CPA"  
179 on any business card or letterhead or any other printed or  
180 electronic document. However, such title must not be applied in  
181 such a manner that could confuse the public as to the current  
182 status of the licensee. The licensee is not required to have a  
183 certificate issued with the word "retired" on the certificate.

184 (f) A retired licensee is not required to maintain the  
185 continuing education requirements under s. 473.312.

186 (g) A retired licensee may not offer or render professional  
187 services that require her or his signature and use of the CPA  
188 title, regardless of whether the word "retired" is attached to  
189 such title.

190 (h) A retired licensee may reactivate her or his license in  
191 a conditional manner determined by the board. The conditions of  
192 reactivation must require the payment of fees and the completion  
193 of any required continuing education.

194  
195 For the purposes of this subsection, the term "retired licensee"  
196 means a licensee whose license has been placed in retired status  
197 by the department.

198 Section 5. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-4-20

Meeting Date

1140

Bill Number (if applicable)

Topic

Public Accountability

Amendment Barcode (if applicable)

Name

Justin Thames

Job Title

Director of Governmental Affairs

Address

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Phone

528-2209

Street

City

Tallahassee

State

FL

Zip

32303

Email

justin@figpa.org

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

Representing

Florida Institute of CPAs

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 1240

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Corporate Income Tax Credit

DATE: February 4, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1240 grants eligible car rental, leasing, or financing companies a \$2 million tax credit against their Florida corporate taxes paid for the 2018 taxable year. To be eligible for the tax credit, these companies must have deferred gains on the sale of personal property for corporate federal income tax purposes under s. 1031 of the Internal Revenue Code during the August 1, 2016-August 1, 2017 taxable year, and incurred a specific rise in tax liability in the August 1, 2017-August 1, 2018 taxable year.

**II. Present Situation:**

**Annual Adoption of the Internal Revenue Code**

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>1</sup> A corporation calculates its taxable income for Florida tax purposes by starting with its taxable income determined for federal tax purposes.<sup>2</sup> This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

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<sup>1</sup> Sections 220.11(2) and 220.63(2), F.S.

<sup>2</sup> See generally s. 220.13(2), F.S.

## Bonus Depreciation

The Internal Revenue Code (IRC, or the Code) allows a taxpayer to deduct the cost of long-term business assets by deducting a portion of the cost over the useful life of the property (depreciation).<sup>3</sup> Since taxpayers deduct for depreciation in calculating their federal taxable income, the deduction is already included when the taxpayer begins calculating its Florida taxable income.

For the past decade, federal legislation has granted an additional, first-year depreciation deduction (bonus depreciation).<sup>4</sup> The legislation has generally authorized 50 or 100 percent of the cost of qualifying property to be deducted in the first year of depreciation. Currently, some level of bonus depreciation is authorized through 2026.

Generally, the entire cost of an asset is depreciable over time. Therefore, bonus depreciation deductions do not increase the total amount that can be deducted as depreciation; bonus depreciation merely accelerates the depreciation deduction. That being said, the immediate fiscal impact of bonus depreciation can substantially reduce corporate income tax receipts in the near term. As an example, the Revenue Estimating Conference determined that bonus depreciation granted by the Tax Increase Prevention Act of 2014 would reduce Fiscal Year 2015-2016 General Revenue receipts by \$180 million.<sup>5</sup>

Due to the near term fiscal impact that bonus depreciation deductions would have on Florida, the Legislature has chosen to “decouple” from these deductions by requiring taxpayers to add back the amount of bonus depreciation to their taxable income for Florida purposes and then subtract 1/7<sup>th</sup> of that amount over seven years.<sup>6</sup> This treatment has the effect of giving the taxpayer the benefit of bonus depreciation, but requiring the taxpayer to “spread” that benefit over a 7-year period.

The following chart provides a list of recent federal acts that have granted bonus depreciation and the Florida law that “decoupled” from the bonus depreciation provisions.<sup>7</sup>

<b>Federal Act</b>	<b>Applies to Taxable Years beginning on or after January 1 of:</b>	<b>Bonus Depreciation Amount</b>	<b>Florida Law that “Decoupled”</b>
The Economic Stimulus Act of 2008	2008	50 percent	Chapter 2008-206, L.O.F.

<sup>3</sup> See generally ss. 167 and 168, IRC.

<sup>4</sup> See the Economic Stimulus Act of 2008, Pub. L. No. 110-185; the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5; the Small Business Jobs Act of 2010, Pub. L. No. 111-240; the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312; the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240; the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295; the Consolidated Appropriations Act, 2016, Pub. L. No. 114-113; and the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97.

<sup>5</sup> Revenue Impact Conference Impact Statement, Proposed Language, January 26, 2015, *available at*: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/\\_pdf/page17-18.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page17-18.pdf) (last visited Feb. 4, 2020).

<sup>6</sup> See chs. 2008-206, 2009-192, 2011-229, 2013-46, 2015-35, 2016-220, and 2018-119, L.O.F.

<sup>7</sup> In some instances, the Florida law also decoupled from increased first-year expensing provisions included in the federal act; however, first-year expensing is not directly relevant to the issue in the bill being analyzed.

The American Recovery and Reinvestment Act of 2009	2009	50 percent	Chapter 2009-192, L.O.F.
The Small Business Jobs Act of 2010	2010	100 percent	Chapter 2011-229, L.O.F.
The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010	2011	50 percent	
	2012	50 percent	
The American Taxpayer Relief Act of 2012	2013	50 percent	Chapter 2013-46, L.O.F.
The Tax Increase Prevention Act of 2014	2014	50 percent	Chapter 2015-35, L.O.F.
The Consolidated Appropriations Act, 2016 <sup>8</sup>	2015	50 percent	Chapter 2016-220, L.O.F.
	2016	50 percent	
	2017	50 percent	
Tax Cuts and Jobs Act of 2017	2018	100 percent	Chapter 2018-119, L.O.F.
	2019	100 percent	
	2020	100 percent	
	2021	100 percent	
	2022	100 percent	
	2023	80 percent	
	2024	60 percent	
	2025	40 percent	
	2026	20 percent	
	2027	0 percent	

### **The Tax Cuts and Jobs Act of 2017**

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (TCJA).<sup>9</sup> The TCJA made significant changes to federal income tax provisions related to individuals, corporations, and the treatment of foreign income. As shown in the chart above, the TCJA extended bonus depreciation through taxable years beginning before January 1, 2027.<sup>10</sup>

### ***Section 1031 Exchanges***

Generally, when a taxpayer sells an asset, the Code requires the taxpayer to recognize as income any gain on the sale.<sup>11</sup> One exception to this general recognition rule is provided by section 1031 of the Code, for transactions commonly known as “like-kind exchanges” or “1031 exchanges.”

<sup>8</sup> The Consolidated Appropriations Act, 2016, also provided bonus depreciation amounts for 2018 and 2019 of 40 percent and 30 percent, respectively; however, the Tax Cuts and Jobs Act increased those percentages to 100 percent for both years.

<sup>9</sup> Pub. Law No. 115-97 (December 22, 2017)

<sup>10</sup> For simplicity, the chart above shows the TCJA’s bonus depreciation provisions as applying to taxable years beginning January 1, 2018; however, the TCJA also applied its bonus depreciation provisions to qualifying property acquired after September 27, 2017. *See* Tax Cuts and Jobs Act of 2017, s. 13201, Pub. L. No. 115-97.

<sup>11</sup> *See* s. 62(a)(3), IRC

Prior to the TCJA, s. 1031 of the Code provided that a taxpayer shall not recognize gain or loss when business property was exchanged for business property of a like kind.<sup>12</sup> Thus, a business that was regularly exchanging old business equipment for new business equipment might avoid having to recognize any relevant income at the federal level by exchanging the old equipment for new equipment, rather than selling the old equipment and buying new equipment in separate transactions. For example, this type of transaction could be used by a rental car company that regularly updates its rental fleet.<sup>13</sup> So, companies that were using s. 1031 of the Code to avoid recognizing income when business equipment was exchanged, would not be required to recognize income at the federal level. When the income was not recognized at the federal level, that income would likewise not be recognized for Florida tax purposes.

Importantly, the TCJA amended s. 1031 of the Code to limit use of the provision to exchanges of realty. Therefore, corporations must report any gain or loss as part of their income moving forward. The effect of losing the ability to use s. 1031 of the Code may be mitigated at the federal level because the TCJA provides 100 percent bonus depreciation deduction on the new equipment purchase. For Florida tax purposes, companies are now required to report their income earned on like-kind exchanges and then “spread” the bonus depreciation amount over seven years.

### III. Effect of Proposed Changes:

The bill creates s. 220.197, F.S., which provides a \$2 million credit against the 2018 state corporate income tax of certain motor vehicle rental, motor vehicle leasing, and motor vehicle financing companies. A corporation is eligible for a \$2 million credit if it deferred gains on the sale of its personal property assets under s. 1031 of the Internal Revenue Code for the purposes of federal income tax during its taxable year that began on or after August 1, 2016, but before August 1, 2017, and it is:

- A car rental or leasing company that is classified under NAICS<sup>14</sup> industry group code 53211, that had a final tax liability of more than \$15 million for its taxable year beginning on or after August 1, 2017, and before August 1, 2018. This tax liability must also be at least 700 percent greater than its final tax liability from its prior tax year; or
- A car sales financing establishment or car leasing company, classified under NAICS industry group code 522220 and 532112, respectively, that had a final tax liability of more than \$15 million for its taxable year beginning on or after August 1, 2017, and before August 1, 2018. This tax liability must also be at least \$15 million greater than its final tax liability from the prior tax year.

The bill fixes the NAICS references used in s. 220.197, F.S., to the version published in 2007 by the Office of Management and Budget, Executive Office of the President.

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<sup>12</sup> See s. 1031(a)(1), IRC (2016)

<sup>13</sup> Gerald Auten, David Joulfaian, and Romen Mookerjee, *Recent Trends in Like-kind Exchanges*, 1 (August 1, 2017), available at <https://ssrn.com/abstract=3049029> or <http://dx.doi.org/10.2139/ssrn.3049029>. “Indeed, the most common like-kind exchanges are now those involving the ‘trade-in’ of vehicles and replacement vehicles and vehicle fleets, e.g., by rental car companies, farmers, and businesses.”

<sup>14</sup> The NAICS is the North American Industry Classification System developed by the Office of Management and Budget for use by Federal statistical agencies to classify business establishments for the collection, analysis, and publication of statistical data related to the U.S. business economy. U.S. Census Bureau, *Introduction to NAICS*, <https://www.census.gov/eos/www/naics/> (last visited Feb. 4, 2020).

The bill operates retroactively to January 1, 2018, and takes effect upon becoming law.

**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:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some motor vehicle rental, leasing, or financing companies may qualify for a \$2 million credit against their Florida taxes for the 2018 taxable year.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

The Department of Revenue will incur expenses related to creating and issuing a Taxpayer Information Publication (TIP) to alert eligible taxpayers about the 1031 exchange tax credit.<sup>15</sup>

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<sup>15</sup> Florida Department of Revenue, *SB 1240 Agency Analysis* at 4 (Dec. 29, 2019), on file with the Committee on Commerce and Tourism.

**VI. Technical Deficiencies:**

Section 220.02(8), F.S., provides the order in which credits may be applied against a corporation's income tax to reduce its overall tax burden; the bill does not provide guidance regarding the order in which the 1031 exchange tax credit should be applied.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 220.197 of the Florida Statutes:

**IX. Additional Information:**

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

**CS by Commerce and Tourism on February 4, 2020:**

The CS reduces the total tax credit available from \$10 million to \$2 million per taxpayer.

- B. **Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Gruters) recommended the following:

**Senate Amendment**

Delete line 20  
and insert:  
(2) A taxpayer is eligible for a \$2 million credit against

By Senator Gruters

23-01181B-20

20201240\_\_

A bill to be entitled

An act relating to a corporate income tax credit; creating s. 220.197, F.S.; defining the term "NAICS"; providing a credit against the corporate income tax, for a specified amount and for a specified taxable year, for taxpayers classified in the sales financing or passenger car rental or leasing industries which meet certain criteria; providing for retroactive operation; providing an effective date.

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

Section 1. Section 220.197, Florida Statutes, is created to read:

220.197 1031 exchange tax credit.—

(1) As used in this section, the term "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

(2) A taxpayer is eligible for a \$10 million credit against the tax imposed by this chapter for its 2018 taxable year if:

(a)1. The taxpayer is classified under NAICS industry group code 53211;

2. The taxpayer deferred gains on the sale of personal property assets for federal income purposes under s. 1031 of the Internal Revenue Code during its taxable year beginning on or after August 1, 2016, and before August 1, 2017; and

3. The taxpayer's final tax liability for its taxable year beginning on or after August 1, 2017, and before August 1, 2018,

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20201240\_\_

before application of the credit authorized by this section, is greater than \$15 million and is at least 700 percent greater than its final tax liability for its taxable year beginning on or after August 1, 2016, and before August 1, 2017; or

(b)1. The taxpayer is classified under NAICS industry group code 522220 or 532112;

2. The taxpayer deferred gains on the sale of personal property assets for federal income purposes under s. 1031 of the Internal Revenue Code during its taxable year beginning on or after August 1, 2016, and before August 1, 2017; and

3. The taxpayer's final tax liability for its taxable year beginning on or after August 1, 2017, and before August 1, 2018, before application of the credit authorized by this section, is greater than \$15 million and is at least \$15 million greater than its final tax liability for its taxable year beginning on or after August 1, 2016, and before August 1, 2017.

(3) This section operates retroactively to January 1, 2018.

Section 2. This act shall take effect upon becoming a law.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/4  
Meeting Date

1240  
Bill Number (if applicable)

Topic Corporate Income Tax Credit

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N Adams  
Street

Phone 224-7173

TLH FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

## THE FLORIDA SENATE

**APPEARANCE RECORD**

2-4-2020

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

Meeting Date

1240

Bill Number (if applicable)Topic Corporate Income TaxAmendment Barcode (if applicable)Name Kurt WennerJob Title Vice PresidentAddress 106 N BronoughPhone 850-222-5052StreetTallahasseeFL32301CityStateZipEmail kwenner@floridataxwatch.orgSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Florida TaxWatchAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/4/20

Meeting Date

SB 1240

Bill Number (if applicable)

Topic CIT CREDIT

Amendment Barcode (if applicable)

Name FRENCH BROWN

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32301

City

State

Zip

Email fbrown@deanreed.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Chamber

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

**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 1642

INTRODUCER: Senator Gruters

SUBJECT: Tax Exemptions

DATE: February 4, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Fav/CS</b>
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1642 makes changes to Florida's tax statutes. The bill:

- Exempts from sales tax the purchase of aircraft equipment used for advanced training purposes as part of a contract with the U.S. Department of Defense (DOD) or a military branch of a recognized foreign government;
- Exempts from use tax aircraft owned by a nonresident if the aircraft enters or remains in the state to be used in service of a contract with the DOD or with a military branch of a recognized foreign government;
- Exempts from sales tax the purchase of parts and accessories for industrial machinery and equipment;
- Increases a property tax discount from 50 percent to 100 percent for certain multifamily projects that provide affordable housing to low-income families; and
- Allows projects that create intellectual property to qualify for the Capital Investment Tax Credit.

Except as otherwise provided, the bill takes effect upon becoming law.

## **II. Present Situation:**

### **Sales and Use Tax**

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,<sup>1</sup> admissions,<sup>2</sup> transient rentals,<sup>3</sup> and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>4</sup> Sales tax receipts accounted for approximately 77 percent of the state's General Revenue in Fiscal Year 2018-2019.<sup>5</sup>

### **Sales and Use Tax Exemptions**

#### ***Aircraft Purchases***

Section 212.05, F.S., provides exemptions from the sales and use tax on the purchase of an aircraft by a nonresident of the state if the purchaser removes the aircraft from the state within 10 days after the date of purchase or, when the aircraft is repaired or altered, within 20 days after the completion of the repairs or alterations. Within 10 days of an aircraft's removal from the state, a purchaser must provide to the Department of Revenue (DOR) proof of the removal in the form of receipts for fuel, tie-down, or hangaring from outside of Florida. A purchaser must also provide the DOR, within 30 days of departure, with written proof that the purchaser licensed or registered the aircraft outside the state. If a purchaser fails to remove an aircraft within the specified period; returns to Florida within 6 months after the purchase, except as provided in s. 212.08(7)(fff), F.S.; or does not provide the DOR with the required information the purchaser must pay the use tax on the cost of the aircraft and a penalty equal to the tax payable.

As provided for in s. 212.08(7)(fff), F.S., aircrafts owned by a nonresident are exempt from use tax if the aircraft enters and remains in Florida for less than a total of 21 days during the 6-month period after the date of purchase, or if the aircraft enters or remains in Florida exclusively for the purposes of flight training, repairs, alterations, refitting, or modification. These conditions must be proven with invoices or written documentation.

#### ***Imports and Exports of Aircraft***

Use tax applies to and is due on tangible personal property, *e.g.* aircraft, imported or caused to be imported into the state for use, consumption, distribution, or storage to be used or consumed in this state. It is presumed that the tangible personal property used in another state, territory, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state.<sup>6</sup>

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<sup>1</sup> Section 212.05, F.S.

<sup>2</sup> Section 212.04, F.S.

<sup>3</sup> Section 212.03, F.S.

<sup>4</sup> Florida Department of Revenue, *Florida Sales and Use Tax*, available at [https://floridarevenue.com/taxes/taxesfees/pages/sales\\_tax.aspx](https://floridarevenue.com/taxes/taxesfees/pages/sales_tax.aspx) (last visited Feb. 4, 2020).

<sup>5</sup> Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Feb. 4, 2020).

<sup>6</sup> Section 212.06(8)(a), F.S.

Aircraft exported under their own power outside the continental United States are tax exempt when a validated U.S. customs declaration and the canceled U.S. registry of the aircraft are submitted to the DOR.<sup>7</sup>

### ***Aircraft Manufacturers***

Section 212.08(11), F.S., provides that the sales tax imposed on an aircraft sold by a manufacturer is equal to the amount of sales tax that would be imposed by the state where the aircraft will be domiciled, up to the 6 percent imposed by Florida.<sup>8</sup> This partial exemption only applies if the purchaser is a resident of another state who will not use the aircraft in Florida; if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce; or if the purchaser is a resident of a foreign country. The purchaser must provide a sworn affidavit stating they are not a resident of the state and where the aircraft will be domiciled. If the aircraft is used in the state within 6 months of purchase,<sup>9</sup> the purchaser must pay the full use tax on the aircraft and a penalty of 10 percent of the tax pursuant to s. 212.12(2), F.S.

### ***Industrial Machinery and Equipment***

Section 212.08(7)(jjj), F.S., exempts the purchase of industrial machinery and equipment from sales and use tax if the equipment is purchased by an eligible manufacturing business and used at a fixed location in the state for the manufacture, processing, compounding, or production of items of tangible personal property for sale.

“Eligible manufacturing business” means any business whose primary business activity<sup>10</sup> where the industrial machinery and equipment are located is within the industries classified under the North American Industry Classification System (NAICS) codes 31-33, 112511, and 423930, pertaining to manufacturing, finfish farming and fish hatcheries, and recyclable material merchant wholesalers, respectively.<sup>11</sup>

“Industrial machinery and equipment” means tangible personal property or other property with a depreciable life of 3 years or more that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes parts and accessories for industrial machinery and equipment only if the parts and accessories are purchased before the date the machinery and equipment are placed in service.

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<sup>7</sup> Section 212.06(5)(a)1., F.S.

<sup>8</sup> Tax may not be imposed if the state where the aircraft will be domiciled exempts aircraft from sales and use tax. Section 212.08(11)(c), F.S.

<sup>9</sup> Section 212.08(11)(d), F.S. specifies that the purchaser must pay the full tax and the penalty if the aircraft is used in the state within 6 months of the purchase *in violation of the intent of [subsection 11 of s. 212.08, F.S.]*.

<sup>10</sup> Section 212.08(7)(jjj)2.d., F.S., defines “primary business activity” as activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment are located.

<sup>11</sup> North American Industry Classification Systems Association, *NAICS Code List*, available at <https://www.naics.com/search/#naics> (last visited Feb. 4, 2020). The manufacturing sector represented by NAICS codes 31, 32, and 33 comprises establishments engaged in the mechanical, physical, or chemical transformation of raw materials into new products. See North American Industry Classification Systems Association, *NAICS Code Description: 31-33 – Manufacturing*, available at <https://www.naics.com/naics-code-description/?code=31-33> (last visited Feb. 4, 2020).



The purchaser must provide the seller with a signed certificate certifying the purchaser's entitlement to the tax exemption; this certificate relieves the seller of any potential tax liability on nonqualified purchases.

### **Property Taxation**

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>12</sup>

The property appraiser annually determines the "just value"<sup>13</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."<sup>14</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>15</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>16</sup> The just valuation standard generally requires the property appraiser to consider the highest and best use of property.<sup>17</sup>

### ***Affordable Housing***

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.<sup>18</sup>

Section 198.1978, F.S., authorizes property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not-for-profit corporation used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.<sup>19</sup> In order to qualify for the exemption, the property must comply with s.

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<sup>12</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>13</sup> Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>14</sup> *See* s. 192.001(2) and (16), F.S.

<sup>15</sup> FLA. CONST. art. VII, s. 1(a).

<sup>16</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>17</sup> Section 193.011(2), F.S.

<sup>18</sup> FLA. CONST. art. VII, s. 3.

<sup>19</sup> The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. *See* 26 U.S.C. § 501(c)(3) ("charitable purposes" include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In 2017, the Legislature provided that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;
- Contains more than 70 units used to provide affordable housing to the above group; and
- Is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.<sup>20</sup>

The property tax discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities.<sup>21</sup>

### **Capital Investment Tax Credit**

The Capital Investment Tax Credit (CITC) grants a tax credit to qualifying businesses of up to 5 percent of the eligible capital costs generated by a qualifying project.<sup>22</sup> The credit may be applied against corporate income tax or insurance premium tax liabilities generated by or arising out of a qualifying project.

Section 220.191, F.S., defines the projects that are eligible for the program. They include:

- A new or expanded facility in a designated high-impact sector<sup>23</sup> that creates at least 100 new jobs;
- A new or expanded facility in a target industry<sup>24</sup> that creates or retains at least 1,000 jobs, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area, and result in a cumulative capital investment of at least \$100 million; and
- A new or expanded headquarters facility located in an enterprise zone and brownfield area that creates at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage and makes a cumulative capital investment in this state of at least \$250 million.

<sup>20</sup> Chapter 2017-36, s. 6, Laws of Fla.

<sup>21</sup> Section 196.1978(c), F.S.

<sup>22</sup> Section 220.191(2)(a), F.S. Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations.

<sup>23</sup> The sectors currently designated as high impact are transportation equipment (including aviation and aerospace), information technology, life sciences, financial services, corporate headquarters, and clean energy. See Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 7, 17* (2019), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1916rpt.pdf> (last visited Feb. 4, 2020).

<sup>24</sup> The current targeted industries are aviation and aerospace; life sciences; manufacturing; defense and homeland security; information technology; financial and professional services; logistics and distribution; research and development; cleantech; and corporate headquarters. See Enterprise Florida, Inc., *Qualified Targeted Industries for Incentives*, available at [https://www.enterpriseflorida.com/wp-content/uploads/SI\\_Targeted\\_Industries.pdf](https://www.enterpriseflorida.com/wp-content/uploads/SI_Targeted_Industries.pdf) (last visited Feb. 4, 2020).

The annual tax credit may not exceed the following percentages of the annual corporate income tax liability or the insurance premium tax liability generated by or arising out of a qualifying project:

- 100 percent for a qualifying project which results in a cumulative capital investment of at least \$100 million;
- 75 percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million; or
- 50 percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.<sup>25</sup>

A qualifying business that establishes a qualifying project in an enterprise zone and brownfield area that creates at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage and makes a cumulative capital investment in this state of at least \$250 million is eligible for a tax credit in an amount equal to the lesser of \$15 million or 5 percent of the eligible capital costs made in connection with the project. This tax credit may be granted annually for a period of up to 20 years beginning with the commencement of operations of the project. The total tax credit provided to such a qualifying business may not exceed 100 percent of the eligible capital costs of the project.<sup>26</sup>

The Department of Economic Opportunity, upon a recommendation by Enterprise Florida, Inc., must first certify a business as eligible to receive tax credits under the CITC prior to the commencement of operations of a qualifying project and transfer such certification to the DOR. The DOR will then enter into a written agreement with the qualifying business specifying the method by which income generated by a qualifying project will be determined.<sup>27</sup> Prior to receiving tax credits under the CITC, a qualifying business must achieve and maintain the minimum employment goals beginning with the commencement of operations at a qualifying project.<sup>28</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 196.1978, F.S., to increase the ad valorem tax discount from 50 percent to 100 percent on multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families. The bill also provides that such a multifamily project will receive the ad valorem tax discount beginning in the 16th year of the term of agreement on the affordable housing property; current law provides that the discount will begin on January 1 of the year following the 15<sup>th</sup> year of such an agreement.

Section 1 takes effect January 1, 2021.

**Section 2** amends s. 212.08(5), F.S., exempting aircraft equipment used in government contracts from sales and use tax. Under the bill, equipment used to service, test, operate, upgrade, or configure aircraft for advanced training purposes as part of any contract with the DOD or with a military branch of a recognized foreign government is exempt from sales and use tax.

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<sup>25</sup> Section 220.191(2)(a), F.S.

<sup>26</sup> Section 220.191(3)(a), F.S.

<sup>27</sup> Section 220.191(5), F.S.

<sup>28</sup> Section 220.191(4), F.S.

“Equipment” includes electric and hydraulic ground power units, jet starter units, oxygen servicing and test equipment, engine trim boxes, and communications and avionics test sets.

Section 2 also amends s. 212.08(7)(fff), F.S., to provide that an aircraft owned by a nonresident is exempt from use tax if the aircraft enters or remains in the state exclusively to be used in service of a contract with the DOD or with a military branch of a recognized foreign government.

Section 2 takes effect July 1, 2020.

**Section 3** amends s. 212.08(7)(jjj), F.S., relating to tax exemptions for the purchase of industrial machinery and equipment by an eligible manufacturing business. Under current law, parts and accessories for industrial machinery and equipment are only included in the definition of “industrial machinery and equipment” and exempt from sales and use tax if the parts and accessories are purchased before the date the machinery and equipment are placed into service. The bill expands “industrial machinery and equipment” to include parts and accessories “necessary for the continued operation of the industrial machinery or equipment.”

Section 3 takes effect October 1, 2020.

**Section 4** amends s. 220.191, F.S., to include the creation of intellectual property as a project eligible for a tax credit under the CITC. Intellectual property includes copyrightable projects for the development of computer software, internal development platforms, and cloud-based services. At least 75 of the forecasted revenues for an intellectual property project must be from outside this state.

Eligible capital costs for intellectual property projects include wages, salaries, or other compensation paid to legal residents of Florida, as well as the cost of newly purchased software and hardware that are located in and exclusively used in Florida. For intellectual property projects, the qualifying project can be made up of one or more projects with different start and completion dates. The annual average wage of intellectual property project jobs must be at least 150 percent of the average private sector wage in the area.

A qualifying business may receive a tax credit equal to 20 percent of an intellectual property project’s eligible capital costs if the cumulative capital investment of one or more projects is in aggregate of at least \$50 million per year for 3 years and the capital investment of each individual project is at least \$3.75 million.

Taxpayers that are unable to use tax credits within 1 year due to insufficient tax liability may use any unused amount beginning in the year of the completion date of the project through the 9th year after completion of the project. The taxpayer may elect to transfer unused credits in any year; receiving businesses must use the credit in the year received.

Section 4 also requires that the Department of Economic Opportunity must first certify a business as eligible to receive tax credits under the CITC prior to the commencement of operations *or the completion date* of a qualifying project. Prior to receiving tax credits under the

CITC, a qualifying business must achieve and maintain the minimum employment goals beginning with the commencement of operations *or the completion date* or a qualifying project.

**Section 5** updates a cross-reference in s. 288.1089, F.S., referring to the definition of “cumulative investment” in s. 220.191, F.S.

**Section 6** provides that, except as expressly provided for in the bill, the bill takes effect upon becoming law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirements do not apply to laws having an insignificant fiscal impact,<sup>29, 30</sup> which is \$2.1 million or less for Fiscal Year 2019-2020.<sup>31</sup>

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None.

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<sup>29</sup> FLA. CONST. art. VII, s. 18(d).

<sup>30</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 4, 2020).

<sup>31</sup> Based on the Demographic Estimating Conference’s population adopted on July 8, 2019, available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 4, 2020).

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

The Revenue Estimating Conference has not yet met regarding the bill.

**B. Private Sector Impact:**

Owners of multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families will realize additional savings on ad valorem taxes.

Purchasers of aircraft equipment used as part of a contract with the DOD or a military branch of a recognized foreign government, nonresident owners of aircraft that enter or remain in Florida to be used as part of a contract with the DOD or a military branch of a recognized foreign government, and eligible manufacturing businesses purchasing parts and accessories necessary for the continued operation of industrial machinery or equipment will realize savings.

Qualified businesses that establish qualified intellectual property projects will realize savings on corporate income tax and insurance premium tax liabilities.

**C. Government Sector Impact:**

The DOR has indicated that the bill would have no impact on its expenditures.

**VI. Technical Deficiencies:**

The bill's title is "An act relating to tax exemptions," but the CITC is a credit for taxes paid, not an exemption from taxation.

**VII. Related Issues:**

The bill exempts parts and accessories for industrial machinery and equipment purchased by an eligible manufacturing business from sales tax if the parts and accessories are "*necessary* for the continued operation of the industrial machinery or equipment." The bill does not provide specific criteria that parts and accessories must meet in order to be considered "*necessary*." Without any such criteria, there could be differing interpretations as to whether particular parts or accessories are eligible for the exemption.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 196.1978, 212.08, 220.191, and 288.1089.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on February 4, 2020:**

- Increases the discount on ad valorem taxes owed on property in a multifamily project from 50 percent to 100 percent of the property's value;
- Changes the discount's start date from the 15th year of the project's agreement to the 16th year of the project's agreement;
- Allows projects that create intellectual property to qualify for the Capital Investment Tax Credit; and
- Creates a tax credit equal to 20 percent of a qualified business's capital costs when a business establishes an intellectual property project with a cumulative capital investment of at least \$50 million per year for 3 years.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Commerce and Tourism (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Effective January 1, 2021, section 196.1978,  
Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible  
persons as defined by s. 159.603 and natural persons or families  
meeting the extremely-low-income, very-low-income, low-income,





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or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this subsection ~~section~~ must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member.

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project that meets the requirements of this paragraph is considered property used for a charitable purpose and shall receive a 100 ~~50~~ percent discount from the amount of ad valorem tax otherwise owed beginning in the 16th ~~with the January 1 assessment after the 15th completed~~ year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004. The multifamily project must:

1. Contain more than 70 units that are used to provide



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affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income persons limits specified in s. 420.0004; and

2. Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004.

This discount terminates if the property no longer serves extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement.

(b) To receive the discount under paragraph (a), a qualified applicant must submit an application to the county property appraiser by March 1.

(c) The property appraiser shall apply the discount by reducing the taxable value on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 before certifying the tax roll to the tax collector.

1. The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.

2. One hundred ~~Fifty~~ percent of the remaining value shall be subtracted to yield the discounted taxable value.

3. The resulting taxable value shall be included in the



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certification for use by taxing authorities in setting millage.

4. The property appraiser shall place the discounted amount on the tax roll when it is extended.

Section 2. Effective July 1, 2020, paragraph (fff) of subsection (7) of section 212.08, Florida Statutes, is amended, and paragraph (u) is added to subsection (5) of that section, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(u) Aircraft equipment used in governmental contracts.—  
Equipment, including electric and hydraulic ground power units, jet starter units, oxygen servicing and test equipment, engine trim boxes, and communications and avionics test sets, which is used to service, test, operate, upgrade, or configure aircraft for advanced training purposes as part of any contract with the United States Department of Defense or with a military branch of a recognized foreign government, is exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed



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by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(fff) *Aircraft temporarily in the state.*—

1. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from this state may be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation that clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraphs 2. and 3. ~~subparagraph 2.~~ and s. 212.05(1)(a).

2. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters or remains in this state exclusively for purposes of flight training, repairs, alterations, refitting, or modification. Such purposes shall be supported by written documentation issued by



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in-state vendors or suppliers which clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 1. and s. 212.05(1)(a).

3. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters or remains in this state exclusively to be used in service of a contract with the United States Department of Defense or with a military branch of a recognized foreign government. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 1. and s. 212.05(1)(a).

Section 3. Effective October 1, 2020, paragraph (jjj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has



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obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jjj) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in this state for the manufacture, processing, compounding, or production of items of tangible personal property for sale is exempt from the tax imposed by this chapter. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, 33, 112511, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where



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the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d. "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and



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equipment only to the extent that the parts and accessories are necessary for the continued operation of the industrial machinery or equipment or were purchased before the date the machinery and equipment were ~~are~~ placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and





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materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

Section 4. Section 220.191, Florida Statutes, is amended to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—As used in ~~For purposes of~~ this section, the term:

(a) "Commencement of operations" means the beginning of active operations by a qualifying business of the principal function for which a qualifying project was constructed.

(b) "Cumulative capital investment" means the total capital investment in land, buildings, ~~and~~ equipment, and intellectual property made in connection with a qualifying project during the period from the beginning of construction or the start date of the project to the commencement of operations or the completion of the project, as applicable.

(c) "Eligible capital costs" means all expenses incurred by a qualifying business in connection with the acquisition, construction, installation, ~~and~~ equipping, and development of a qualifying project during the period from the beginning of construction or the start date of the project to the commencement of operations or the completion of the project, as



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applicable, including, but not limited to:

1. The costs of acquiring, constructing, installing, equipping, and financing a qualifying project, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen.

2. The costs of acquiring land or rights to land and any cost incidental thereto, including recording fees.

3. The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as the performance of all duties required by or consequent to the acquisition, construction, installation, and equipping of a qualifying project.

4. The costs associated with the installation of fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work and excavation; removal of structures, roadways, and other surface obstructions; filling, grading, paving, and provisions for drainage, storm water retention, and installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the property.

5. For the development of intellectual property, the wages, salaries, or other compensation paid to legal residents of this state and the costs of newly purchased computer software and hardware unique to the project, including servers, data processing, and visualization technologies, which are located



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and used exclusively in this state for the project.

Eligible capital costs shall not include the cost of any property previously owned or leased by the qualifying business.

(d) "Income generated by or arising out of the qualifying project" means the qualifying project's annual taxable income as determined by generally accepted accounting principles and under s. 220.13.

(e) "Intellectual property" means a copyrightable project for which the eligible capital costs are principally paid directly or indirectly for the creation of the project. As used in this paragraph, the term "copyrightable project" includes, but is not limited to, a copyrightable software or multimedia application and its expansion content made available to an end user, internal development platforms that support the production of multiple applications, cloud-based services that support the functionality of multiple applications, and copyrighted projects registered with the United States Copyright Office which include digital visualization and sound synchronization technologies. The project may not be intended for distribution solely inside this state, and at least 75 percent of forecasted revenues for the project must be from outside this state.

(f) "Jobs" means full-time equivalent positions, as that term is consistent with terms used by the Department of Economic Opportunity and the United States Department of Labor for purposes of reemployment assistance tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs involved in the construction of the project facility.



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(g)~~(f)~~ "Qualifying business" means a business which establishes a qualifying project in this state and which is certified by the Department of Economic Opportunity to receive tax credits pursuant to this section.

(h)~~(g)~~ "Qualifying project" means a facility or project in this state meeting one or more of the following criteria:

1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Department of Economic Opportunity pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. However, between July 1, 2011, and June 30, 2014, the requirement that a facility be in a high-impact sector is waived for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County. For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.

2. A new or expanded facility in this state which is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and which is induced by this credit to create or retain at least 1,000 jobs in this state, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area as defined in s. 288.106(2), and make a cumulative capital investment of at least \$100 million. Jobs may be considered retained only if there is significant



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evidence that the loss of jobs is imminent. Notwithstanding subsection (2), annual credits against the tax imposed by this chapter may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by or arising out of a project qualifying under this subparagraph. A facility that qualifies under this subparagraph for an annual credit against the tax imposed by this chapter may take the tax credit for a period not to exceed 5 years.

3. A new or expanded headquarters facility in this state which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, as published by the Department of Economic Opportunity, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least \$250 million.

4. For the creation of intellectual property, a qualifying project may be made up of one or more projects with different start and completion dates. The annual average wage of the project jobs in this state must be at least 150 percent of the average private sector wage in the area as defined in s. 288.106(2) (c).

(2) (a) An annual credit against the tax imposed by this chapter shall be granted to any qualifying business in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. Unless assigned as described in this subsection, the tax credit shall be granted against only the corporate income tax liability



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or the premium tax liability generated by or arising out of the qualifying project, and the sum of all tax credits provided pursuant to this section shall not exceed 100 percent of the eligible capital costs of the project. In no event may any credit granted under this section be carried forward or backward by any qualifying business with respect to a subsequent or prior year. The annual tax credit granted under this section shall not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project:

1. One hundred percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.

2. Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.

3. Fifty percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.

(b) A qualifying project which results in a cumulative capital investment of less than \$25 million is not eligible for the capital investment tax credit. An insurance company claiming a credit against premium tax liability under this program shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit.

Because credits under this section are available to an insurance company, s. 624.5091 does not limit such credit in any manner.

(c) A qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing



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facility in this state that generates a minimum of 400 jobs within 6 months after commencement of operations with an average salary of at least \$50,000 may assign or transfer the annual credit, or any portion thereof, granted under this section to any other business. However, the amount of the tax credit that may be transferred in any year shall be the lesser of the qualifying business's state corporate income tax liability for that year, as limited by the percentages applicable under paragraph (a) and as calculated prior to taking any credit pursuant to this section, or the credit amount granted for that year. A business receiving the transferred or assigned credits may use the credits only in the year received, and the credits may not be carried forward or backward. To perfect the transfer, the transferor shall provide the department with a written transfer statement notifying the department of the transferor's intent to transfer the tax credits to the transferee; the date the transfer is effective; the transferee's name, address, and federal taxpayer identification number; the tax period; and the amount of tax credits to be transferred. The department shall, upon receipt of a transfer statement conforming to the requirements of this paragraph, provide the transferee with a certificate reflecting the tax credit amounts transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credits.

(d) If the credit granted under subparagraph (a)1. is not fully used in any one year because of insufficient tax liability on the part of the qualifying business, the unused amounts may be used in any one year or years beginning with the 21st year after the commencement of operations of the project and ending



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the 30th year after the commencement of operations of the project.

(3)(a) Notwithstanding subsection (2), a credit against the tax imposed by this chapter, against state taxes collected or accrued under chapter 212, or against a stated combination of the two taxes shall be granted to a qualifying business that establishes a qualifying project pursuant to subparagraph (1)(h)4. for which the cumulative capital investment of one or more projects is an aggregate of at least \$50 million per year for 3 years, and the capital investment of each individual project is at least \$3.75 million. The tax credit shall be granted in an amount equal to 20 percent of the eligible capital costs generated by the qualifying project. The tax credit shall be granted against the tax liability of the qualifying business.

(b) If the credit granted under this subsection is not fully used in 1 year because of insufficient tax liability on the part of the qualifying business, the unused amounts may be transferred or used in any one year or years beginning with the year of the completion date of the project and ending the 9th year after the completion date of the project. A business receiving the transferred credits may use the credits only in the year received, and the credits may not be carried forward or backward. A transfer must be perfected in accordance with the requirements of paragraph (2)(c).

(4)(a) Notwithstanding subsection (2), an annual credit against the tax imposed by this chapter shall be granted to a qualifying business which establishes a qualifying project pursuant to subparagraph (1)(h)3. ~~(1)(g)3.~~, in an amount equal to the lesser of \$15 million or 5 percent of the eligible





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capital costs made in connection with a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The tax credit shall be granted against the corporate income tax liability of the qualifying business and as further provided in paragraph (c). The total tax credit provided pursuant to this subsection shall be equal to no more than 100 percent of the eligible capital costs of the qualifying project.

(b) If the credit granted under this subsection is not fully used in any one year because of insufficient tax liability on the part of the qualifying business, the unused amount may be carried forward for a period not to exceed 20 years after the commencement of operations of the project. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the qualifying business is eligible in that year under this subsection after applying the other credits and unused carryovers in the order provided by s. 220.02(8).

(c) The credit granted under this subsection may be used in whole or in part by the qualifying business or any corporation that is either a member of that qualifying business's affiliated group of corporations, is a related entity taxable as a cooperative under subchapter T of the Internal Revenue Code, or, if the qualifying business is an entity taxable as a cooperative under subchapter T of the Internal Revenue Code, is related to the qualifying business. Any entity related to the qualifying business may continue to file as a member of a Florida-nexus consolidated group pursuant to a prior election made under s. 220.131(1), Florida Statutes (1985), even if the parent of the



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group changes due to a direct or indirect acquisition of the former common parent of the group. Any credit can be used by any of the affiliated companies or related entities referenced in this paragraph to the same extent as it could have been used by the qualifying business. However, any such use shall not operate to increase the amount of the credit or extend the period within which the credit must be used.

(5)~~(4)~~ Prior to receiving tax credits pursuant to this section, a qualifying business must achieve and maintain the minimum employment goals beginning with the commencement of operations or the completion date of ~~a~~ a qualifying project and continuing each year thereafter during which tax credits are available pursuant to this section.

(6)~~(5)~~ Applications shall be reviewed and certified pursuant to s. 288.061. The Department of Economic Opportunity, upon a recommendation by Enterprise Florida, Inc., shall first certify a business as eligible to receive tax credits pursuant to this section prior to the commencement of operations or the completion date of a qualifying project, and such certification shall be transmitted to the Department of Revenue. Upon receipt of the certification, the Department of Revenue shall enter into a written agreement with the qualifying business specifying, at a minimum, the method by which income generated by or arising out of the qualifying project will be determined.

(7)~~(6)~~ The Department of Economic Opportunity, in consultation with Enterprise Florida, Inc., is authorized to develop the necessary guidelines and application materials for the certification process described in subsection (6) ~~(5)~~.

(8)~~(7)~~ It shall be the responsibility of the qualifying



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business to affirmatively demonstrate to the satisfaction of the Department of Revenue that such business meets the job creation and capital investment requirements of this section.

~~(9)~~<sup>(8)</sup> The Department of Revenue may specify by rule the methods by which a project's pro forma annual taxable income is determined.

Section 5. Paragraph (d) of subsection (2) of section 288.1089, Florida Statutes, is amended to read:

288.1089 Innovation Incentive Program.—

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

(d) "Cumulative investment" means cumulative capital investment and all eligible capital costs, as defined in former s. 220.191, Florida Statutes 2019.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to tax exemptions; amending s. 196.1978, F.S.; revising the affordable housing property exemption to exempt from ad valorem taxation, rather than provide a discount to, certain multifamily projects after a certain timeframe; making clarifying changes; amending s. 212.08, F.S.; providing a sales tax exemption for certain aircraft equipment used as part of certain governmental contracts; providing a



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use tax exemption for certain aircraft owned by nonresidents and used in service of certain governmental contracts; providing construction; providing a sales tax exemption for parts and accessories necessary for the continued operation of certain industrial machinery or equipment; amending s. 220.191, F.S.; redefining terms; defining the term "intellectual property"; providing a credit against the corporate income tax, the sales and use tax, or a stated combination of the two taxes to a qualifying business that establishes a qualifying project for the creation of intellectual property which meets certain capital investment criteria; specifying the calculation of the credit; authorizing the carryover or transfer of credits, subject to certain conditions; conforming provisions to changes made by the act; amending s. 288.1089, F.S.; revising the definition of the term "cumulative investment" to conform to changes made by the act; providing effective dates.

By Senator Gruters

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A bill to be entitled

An act relating to tax exemptions; amending s. 212.08, F.S.; providing a sales tax exemption for certain aircraft equipment used as part of certain governmental contracts; providing a use tax exemption for certain aircraft owned by nonresidents and used in service of certain governmental contracts; providing construction; providing a sales tax exemption for parts and accessories necessary for the continued operation of certain industrial machinery or equipment; providing effective dates.

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

Section 1. Paragraph (fff) of subsection (7) of section 212.08, Florida Statutes, is amended, and paragraph (u) is added to subsection (5) of that section, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(u) Aircraft equipment used in governmental contracts.—

Equipment, including electric and hydraulic ground power units, jet starter units, oxygen servicing and test equipment, engine trim boxes, and communications and avionics test sets, which is used to service, test, operate, upgrade, or configure aircraft

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

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for advanced training purposes as part of any contract with the United States Department of Defense or with a military branch of a recognized foreign government is exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(fff) *Aircraft temporarily in the state.*—

1. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from this state may be proven by invoices for fuel, tie-down, or hangar charges issued

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by out-of-state vendors or suppliers or similar documentation that clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraphs 2. and 3. ~~subparagraph 2.~~ and s. 212.05(1)(a).

2. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters or remains in this state exclusively for purposes of flight training, repairs, alterations, refitting, or modification. Such purposes shall be supported by written documentation issued by in-state vendors or suppliers which clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 1. and s. 212.05(1)(a).

3. An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters or remains in this state exclusively to be used in service of a contract with the United States Department of Defense or with a military branch of a recognized foreign government. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 1. and s. 212.05(1)(a).

Section 2. Effective October 1, 2020, paragraph (jjj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this

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chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jjj) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in this state for the manufacture, processing, compounding, or production of items of tangible personal property for sale is exempt from the tax imposed by this chapter. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect the tax on the sale of such items, and the department

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shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, 33, 112511, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d. "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the

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building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are necessary for the continued operation of the industrial machinery or equipment or were purchased before the date the machinery and equipment were ~~are~~ placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is

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175 replaced. Heating and air conditioning systems are not  
176 postharvest machinery and equipment unless the sole  
177 justification for their installation is to meet the requirements  
178 of the postharvest activities process, even though the system  
179 may provide incidental comfort to employees or serve, to an  
180 insubstantial degree, nonpostharvest activities.

181 3. Postharvest machinery and equipment purchased by an  
182 eligible postharvest activity business which is used at a fixed  
183 location in this state is exempt from the tax imposed by this  
184 chapter. All labor charges for the repair of, and parts and  
185 materials used in the repair of and incorporated into, such  
186 postharvest machinery and equipment are also exempt. If, at the  
187 time of purchase, the purchaser furnishes the seller with a  
188 signed certificate certifying the purchaser's entitlement to  
189 exemption pursuant to this subparagraph, the seller is not  
190 required to collect the tax on the sale of such items, and the  
191 department shall look solely to the purchaser for recovery of  
192 the tax if it determines that the purchaser was not entitled to  
193 the exemption.

194 Section 3. Except as otherwise expressly provided in this  
195 act, this act shall take effect July 1, 2020.



THE FLORIDA SENATE

# APPEARANCE RECORD

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

2/4

Meeting Date

1642

Bill Number (if applicable)

Topic Tax Exemptions

Name Brewster Bevis

Amendment Barcode (if applicable)

Job Title Senior VP

Address 516 W Adams

Street

Phone 224-7173

TLH

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/20  
Meeting Date

1642  
Bill Number (if applicable)

Topic Tax Exemptions

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title \_\_\_\_\_

Address 1400 Village Square Blvd Ste 3-156  
Street  
Tallahassee FL 32312  
City State Zip

Phone 850-385-7805

Email nancy.stewart@nancyblackstewart.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Manufacturers Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Commerce Committee Judge:

Started: 2/4/2020 9:04:18 AM

Ends: 2/4/2020 10:04:00 AM

Length: 00:59:43

9:04:24 AM	Roll call
9:04:37 AM	Chair is Vice Chair Torres so Chair can present Tab 5
9:05:00 AM	Chair Gruters explain bill, SB 1140
9:05:39 AM	Justin Thames, waive in support
9:05:49 AM	Chair Gruters waive close
9:06:00 AM	Roll call
9:06:05 AM	SB 1140 Favorably
9:06:13 AM	Tab 6, SB 1240, Sen. Gruters
9:07:27 AM	306312, amendment
9:07:50 AM	Sen. Stewart question to sponsor
9:08:16 AM	Sponsor respond
9:10:21 AM	Amendment adopted
9:10:42 AM	Speaker, Kurt Wenner, FL TaxWatch
9:10:44 AM	Brewster Bevis, speaker
9:12:08 AM	Chair Torres comments
9:12:53 AM	Chair Gruters respond and close
9:13:12 AM	Roll call
9:13:19 AM	SB 1240 favorably
9:13:29 AM	Tab 7, SB 1642, Chair Gruters
9:13:43 AM	854736 Amendment
9:15:16 AM	Chair Torres question
9:15:25 AM	Response
9:16:57 AM	Sen. Wright comments
9:17:01 AM	Amendment adopted
9:17:20 AM	Nancy Stewart, Manufacturer's Assoc of FL, waives in support
9:17:29 AM	Brewster Bevis, waive in support
9:17:55 AM	Chair Torres comments on bill
9:18:19 AM	Chair Gruters close on bill
9:18:55 AM	Roll call
9:19:06 AM	SB 1642 favorably
9:19:29 AM	Tab 2, SB 660, Sen. Berman
9:20:58 AM	Amendment 258940
9:21:41 AM	Sen. Berman waive close
9:21:49 AM	Amendment adopted
9:21:56 AM	Keith Bell, FL Bar, Business Law Section, waive in support
9:22:06 AM	Sen. Berman waive close
9:22:11 AM	Roll call
9:22:19 AM	SB 660 favorably
9:22:26 AM	Tab 3, SB 850, Sen. Pizzo
9:23:28 AM	Roll call
9:23:32 AM	SB 850 favorably
9:23:51 AM	Tab 4, SB 1740, Sen. Flores
9:24:39 AM	Waive close
9:24:45 AM	Roll call
9:24:50 AM	SR 1704 favorably
9:25:05 AM	Informal recess until Sen. Albritton arrives
9:32:58 AM	Committee back in order
9:33:04 AM	Tab 1, CS/SB 474, Sen. Albritton
9:33:47 AM	Amendment 502686
9:33:59 AM	SubAmendment 865724
9:35:11 AM	David Roberts waive in support of sub amen
9:35:25 AM	Amendment adopted

9:35:36 AM 538138 WD  
 9:35:48 AM 510452 WD  
 9:35:56 AM Amendment 867106  
 9:36:12 AM Amendment adopted  
 9:36:18 AM Amendment 569536  
 9:36:58 AM Sen. Torres question  
 9:37:11 AM Sen. Albritton to respond  
 9:38:41 AM Scott Jenkins, FL Home Builders Assoc, waive in support  
 9:38:53 AM Speaker, Chris Dawson, FL Roofing and Sheet Metal Contractors Assoc.  
 9:39:02 AM Admendment adopted  
 9:39:10 AM Amendment 751274  
 9:40:01 AM Tim Atkinson, Mike Holt Enterprises of Leesburg, Inc., waive in support  
 9:40:12 AM Amendment adopted  
 9:40:24 AM Amendment 891252  
 9:40:57 AM Speaker, Jeff Branch, FL League of Cities - against amendment  
 9:42:55 AM Sen. Stewart question  
 9:43:28 AM Sen. Albritton to respond  
 9:45:20 AM Follow up question Sen. Stewart  
 9:45:57 AM Response of sponsor  
 9:46:46 AM Amendment adopted  
 9:46:58 AM 6888848 WD  
 9:47:09 AM Amendment 782978  
 9:47:43 AM Sen. Stewart question  
 9:47:59 AM Response  
 9:48:12 AM Amendment adopted  
 9:48:18 AM Bak on bill as amended  
 9:48:36 AM Speaker, Michael Halmon, FL Assoc of Cosmotology & Tech Schools  
 9:50:06 AM Speaker, Phillip Snderman, Americans for Prosperity  
 9:50:13 AM Speaker, Cesar Grajales, The Libre Initiative  
 9:51:20 AM Speaker, Christian Camara, Initiative for Justice  
 9:52:50 AM Colton Madill, DBPR  
 9:52:59 AM Allen Mortham waive in support  
 9:53:11 AM Speaker, David Roberts, American Society of Inter Designers  
 9:53:30 AM Speaker, Diego Echeverri, Concerned Vets for America  
 9:55:50 AM Kevin Wright, waive in support  
 9:56:03 AM Gabriel Phillips, waive in support  
 9:56:07 AM John Zak, waive in support  
 9:56:15 AM JC Garcia, waive in support  
 9:56:21 AM Speaker, Logan Padgett, James Madison Institute  
 9:57:57 AM Dan Hendrickson, waive in support  
 9:58:04 AM Ron Book, waive in support  
 9:58:22 AM Sen. Torres comments  
 9:59:32 AM Sen. Stewart comments  
 10:00:25 AM Chair comments  
 10:01:12 AM Sen. Albritton to close on bill  
 10:02:56 AM Roll call  
 10:03:00 AM CS/SB 474 favorably  
 10:03:17 AM Sen. Stewart motions to vote YES after vote taken for SB 1642 and SB 660  
 10:03:36 AM Sen. Wright motions to vote YES after the vote on SB 1140  
 10:03:45 AM Adjournment