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HB 5047, Engrossed 1

2008 Legislature

1 A bill to be entitled
2 An act relating to the Department of Business and
3 Professional Regulation; amending s. 455.32, F.S.;
4 revising the procedures authorizing the department to
5 contract with a nonprofit corporation to provide
6 administrative, examination, licensing, investigative, and
7 prosecutorial services to a regulatory board; providing
8 for a recommendation for such authorization in the
9 department's budget request; requiring specific
10 authorization by general law before privatization may
11 proceed; amending s. 481.205, F.S., relating to the Board
12 of Architecture and Interior Design; revising the
13 requirements for the board's annual budget request;
14 requiring that the board submit an annual report to the
15 Executive Office of the Governor and the Legislature
16 concerning activities relating to unlicensed activity;
17 prescribing requirements for the contents of the report;
18 amending s. 509.032, F.S., relating to the Division of
19 Hotels and Restaurants; deleting a provision requiring
20 that the division provide certain assistance to the State
21 Fire Marshal; deleting a provision requiring that the
22 division provide technical assistance to the Florida
23 Building Commission when updating the construction
24 standards of the Florida Fire Prevention Code; deleting a
25 provision requiring that the division enforce certain
26 provisions of the Florida Fire Prevention Code; revising
27 certain reporting requirements of the division; amending
28 s. 718.501, F.S., relating to the Division of Florida Land

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29 Sales, Condominiums, and Mobile Homes; requiring that the
30 division report annually to the Governor and the
31 Legislature on activities involving training programs for
32 condominium association board members and unit owners, the
33 investigation of complaints, and its core business
34 processes; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsection (4) and paragraphs (d) and (p) of
39 subsection (6) of section 455.32, Florida Statutes, are amended
40 to read:

41 455.32 Management Privatization Act.--

42 (4) Based upon the request of any board, the department is
43 authorized to establish and contract with a nonprofit
44 corporation to provide administrative, examination, licensing,
45 investigative, and prosecutorial services to that board, in
46 accordance with the provisions of this chapter and the
47 applicable practice act and as specified in a contract between
48 the department and the corporation. The privatization request
49 must contain a business case that includes a needs assessment
50 and financial feasibility study performed by the board or an
51 entity commissioned by a majority vote of the board. The needs
52 assessment must contain specific performance standards and
53 measurable outcomes and an evaluation of the department's
54 current and projected performance in regard to those standards.
55 The feasibility study must include the financial status of the
56 board for the current fiscal year and the next 2 fiscal years. A

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57 financial model for the corporation must also be developed which
 58 includes projected costs and expenses for the first 2 years of
 59 operation and specific performance standards and measurable
 60 outcomes. The business case for privatization shall be submitted
 61 by the board to the department for inclusion in its legislative
 62 budget request to the Executive Office of the Governor and the
 63 Legislature pursuant to s. 216.023 ~~must be approved by the~~
 64 ~~Executive Office of the Governor and the Legislative Budget~~
 65 ~~Commission prior to the establishment of the nonprofit~~
 66 ~~corporation.~~ The board shall proceed with the privatization only
 67 if such privatization is specifically authorized by general law.

68 (6) Each corporation created to perform the functions
 69 provided in this section shall:

70 (d) Be approved by the department to operate for the
 71 benefit of the board and in the best interest of the state and
 72 specifically authorized by the Legislature.

73 (p) Meet or exceed the requirements of the business case
 74 developed by the board and approved by the Executive Office of
 75 the Governor ~~and the Legislative Budget Commission.~~

76 Section 2. Subsection (3) of section 481.205, Florida
 77 Statutes, is amended to read:

78 481.205 Board of Architecture and Interior Design.--

79 (3) (a) Notwithstanding the provisions of ss. 455.225,
 80 455.228, and 455.32, the duties and authority of the department
 81 to receive complaints and investigate and discipline persons
 82 licensed under this part, including the ability to determine
 83 legal sufficiency and probable cause; to initiate proceedings
 84 and issue final orders for summary suspension or restriction of

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85 a license pursuant to s. 120.60(6); to issue notices of
86 noncompliance, notices to cease and desist, subpoenas, and
87 citations; to retain legal counsel, investigators, or
88 prosecutorial staff in connection with the licensed practice of
89 architecture and interior design; and to investigate and deter
90 the unlicensed practice of architecture and interior design as
91 provided in s. 455.228 are delegated to the board. All
92 complaints and any information obtained pursuant to an
93 investigation authorized by the board are confidential and
94 exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

95 (b) The board shall contract with a corporation or other
96 business entity pursuant to s. 287.057(3) to provide
97 investigative, legal, prosecutorial, and other services
98 necessary to perform its duties.

99 (c) The corporation or business entity shall comply with
100 all the recordkeeping and reporting requirements of s. 455.32
101 applicable to the scope of the contract and shall report
102 directly to the board in lieu of the department. Records of the
103 corporation or other business entity contracting with the board
104 shall be considered public records as specified in s.
105 455.32(15).

106 (d) Notwithstanding the provisions of s. 455.228, the
107 board may use funds in the unlicensed activity account
108 established under s. 455.2281 to perform its duties relating to
109 unlicensed activity under this subsection.

110 (e) The board shall submit an annual budget request to the
111 department by October 1 of each year ~~Legislature~~ for the purpose
112 of funding its activities under this subsection. The department,

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113 on behalf of the board, shall submit the budget request
 114 unchanged to the Executive Office of the Governor and, ~~which~~
 115 ~~must be separate from the legislative budget request submitted~~
 116 ~~by the department to the Legislature pursuant to s. 216.023.~~

117 (f) The board shall issue an annual report on the
 118 activities under this subsection by October 1 of each year. The
 119 annual report shall be submitted to the Executive Office of the
 120 Governor, the President of the Senate, the Speaker of the House
 121 of Representatives, and the chairs of the legislative
 122 appropriations committees. The report shall describe all of the
 123 activities performed under this subsection for the previous
 124 fiscal year and shall include, but need not be limited to, the
 125 following:

- 126 1. The number of complaints received.
- 127 2. The number of complaints determined to be legally
 128 sufficient.
- 129 3. The number of complaints determined to be legally
 130 insufficient.
- 131 4. The number of complaints dismissed.
- 132 5. The number of complaints filed in circuit court.
- 133 6. The number of complaints determined to have probable
 134 cause.
- 135 7. The number of administrative complaints issued and the
 136 status of the complaints.
- 137 8. The number and nature of disciplinary actions taken by
 138 the board.
- 139 9. The number and the amount of fines and penalties
 140 imposed.

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- 141 10. The number and the amount of fines and penalties
- 142 collected.
- 143 11. Total revenues received and all expenses incurred by
- 144 the contractor during the previous fiscal year.
- 145 12. Total completed investigations.
- 146 13. Total pending investigations.
- 147 14. A summary of any audits performed, including financial
- 148 reports and performance audits of the contractor.

149 Section 3. Paragraph (d) of subsection (2) and subsection
 150 (5) of section 509.032, Florida Statutes, are amended to read:

151 509.032 Duties.--

152 (2) INSPECTION OF PREMISES.--

153 (d) The division shall adopt and enforce sanitation rules
 154 consistent with law to ensure the protection of the public from
 155 food-borne illness in those establishments licensed under this
 156 chapter. These rules shall provide the standards and
 157 requirements for obtaining, storing, preparing, processing,
 158 serving, or displaying food in public food service
 159 establishments, approving public food service establishment
 160 facility plans, conducting necessary public food service
 161 establishment inspections for compliance with sanitation
 162 regulations, cooperating and coordinating with the Department of
 163 Health in epidemiological investigations, and initiating
 164 enforcement actions, and for other such responsibilities deemed
 165 necessary by the division. The division may not establish by
 166 rule any regulation governing the design, construction,
 167 erection, alteration, modification, repair, or demolition of any
 168 public lodging or public food service establishment. It is the

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169 | intent of the Legislature to preempt that function to the
 170 | Florida Building Commission and the State Fire Marshal through
 171 | adoption and maintenance of the Florida Building Code and the
 172 | Florida Fire Prevention Code. The division shall provide
 173 | technical assistance to the commission ~~and the State Fire~~
 174 | ~~Marshal~~ in updating the construction standards of the Florida
 175 | Building Code ~~and the Florida Fire Prevention Code~~ which govern
 176 | public lodging and public food service establishments. Further,
 177 | the division shall enforce the provisions of the Florida
 178 | Building Code ~~and the Florida Fire Prevention Code~~ which apply
 179 | to public lodging and public food service establishments in
 180 | conducting any inspections authorized by this part.

181 | (5) REPORTS REQUIRED.--The division shall submit annually
 182 | to send the Governor, the President of the Senate, the Speaker
 183 | of the House of Representatives, and the chairs of the
 184 | legislative appropriations committees a ~~written~~ report, which
 185 | shall state, but need not be limited to, the total number of
 186 | active public lodging and public food service licenses in the
 187 | state, the total number of inspections of these establishments
 188 | conducted by the division to ensure the enforcement of sanitary
 189 | standards, the total number of inspections conducted in response
 190 | to emergency or epidemiological conditions, the number of
 191 | violations of each sanitary standard, the total number of
 192 | inspections conducted to meet the statutorily required number of
 193 | inspections, and any recommendations for improved inspection
 194 | procedures. The division shall also keep accurate account of all
 195 | expenses arising out of the performance of its duties and all

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196 fees collected under this chapter. The report shall be submitted
 197 by September 30 following the end of the fiscal year.

198 Section 4. Paragraph (n) is added to subsection (1) of
 199 section 718.501, Florida Statutes, to read:

200 718.501 Powers and duties of Division of Florida Land
 201 Sales, Condominiums, and Mobile Homes.--

202 (1) The Division of Florida Land Sales, Condominiums, and
 203 Mobile Homes of the Department of Business and Professional
 204 Regulation, referred to as the "division" in this part, in
 205 addition to other powers and duties prescribed by chapter 498,
 206 has the power to enforce and ensure compliance with the
 207 provisions of this chapter and rules promulgated pursuant hereto
 208 relating to the development, construction, sale, lease,
 209 ownership, operation, and management of residential condominium
 210 units. In performing its duties, the division has the following
 211 powers and duties:

212 (n) The division shall submit to the Governor, the
 213 President of the Senate, the Speaker of the House of
 214 Representatives, and the chairs of the legislative
 215 appropriations committees an annual report that includes, but
 216 need not be limited to, the number of training programs provided
 217 for condominium association board members and unit owners, the
 218 number of complaints received by type, the number and percent of
 219 complaints acknowledged in writing within 30 days and the number
 220 and percent of investigations acted upon within 90 days in
 221 accordance with paragraph (m), and the number of investigations
 222 exceeding the 90-day requirement. The annual report shall also
 223 include an evaluation of the division's core business processes

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224 | and make recommendations for improvements, including statutory
225 | changes. The report shall be submitted by September 30 following
226 | the end of the fiscal year.

227 | Section 5. This act shall take effect July 1, 2008.