

By Senator Hays

20-01406A-11

20111824__

1 A bill to be entitled
2 An act relating to regulated professions and
3 occupations; amending s. 322.142, F.S.; authorizing
4 the Department of Highway Safety and Motor Vehicles to
5 release certain digital images to the Department of
6 Business and Professional Regulation to identify
7 certain persons; amending s. 455.213, F.S.;
8 authorizing the Department of Business and
9 Professional Regulation to grant waivers of renewal
10 fees under certain circumstances; amending s. 455.271,
11 F.S.; revising continuing education requirements for
12 license reactivations; amending s. 475.42, F.S.;
13 revising violations and penalties for real estate
14 professionals; amending s. 475.626, F.S.; revising
15 violations and penalties for appraisers; amending s.
16 477.0212, F.S.; revising continuing education
17 requirements for cosmetology license reactivations;
18 amending s. 477.0265, F.S.; revising prohibited acts
19 for cosmetologists; amending s. 481.217, F.S.;
20 revising continuing education requirements for license
21 reactivation of architect or interior design licenses;
22 amending s. 481.315, F.S.; revising continuing
23 education requirements for landscape architect license
24 reactivations; amending s. 489.116, F.S.; revising
25 continuing education requirements for contractor
26 license reactivations; amending s. 489.519, F.S.;
27 revising continuing education requirements for
28 electrical and alarm system contractor license
29 reactivations; amending s. 10, chapter 2010-84, Laws

20-01406A-11

20111824

30 of Florida, extending the effective date of provisions
31 relating to the discipline of appraisal management
32 companies; providing effective dates.
33

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

36 Section 1. Subsection (4) of section 322.142, Florida
37 Statutes, is amended to read:

38 322.142 Color photographic or digital imaged licenses.—

39 (4) The department may maintain a film negative or print
40 file. The department shall maintain a record of the digital
41 image and signature of the licensees, together with other data
42 required by the department for identification and retrieval.
43 Reproductions from the file or digital record are exempt from
44 the provisions of s. 119.07(1) and shall be made and issued only
45 for departmental administrative purposes; for the issuance of
46 duplicate licenses; in response to law enforcement agency
47 requests; to the Department of Business and Professional
48 Regulation pursuant to an interagency agreement for the purpose
49 of accessing digital images for reproduction of licenses issued
50 by the Department of Business and Professional Regulation or for
51 the purpose of identifying subjects who are under criminal
52 investigation for unlicensed activity pursuant to s. 455.228; to
53 the Department of State pursuant to an interagency agreement to
54 facilitate determinations of eligibility of voter registration
55 applicants and registered voters in accordance with ss. 98.045
56 and 98.075; to the Department of Revenue pursuant to an
57 interagency agreement for use in establishing paternity and
58 establishing, modifying, or enforcing support obligations in

20-01406A-11

20111824

59 Title IV-D cases; to the Department of Children and Family
60 Services pursuant to an interagency agreement to conduct
61 protective investigations under part III of chapter 39 and
62 chapter 415; to the Department of Children and Family Services
63 pursuant to an interagency agreement specifying the number of
64 employees in each of that department's regions to be granted
65 access to the records for use as verification of identity to
66 expedite the determination of eligibility for public assistance
67 and for use in public assistance fraud investigations; or to the
68 Department of Financial Services pursuant to an interagency
69 agreement to facilitate the location of owners of unclaimed
70 property, the validation of unclaimed property claims, and the
71 identification of fraudulent or false claims.

72 Section 2. Subsection (12) is added to section 455.213,
73 Florida Statutes, to read:

74 455.213 General licensing provisions.—

75 (12) The department may grant a fee waiver for a license
76 renewal to a licensee on a case-by-case basis due to financial
77 hardship or an error caused by the department.

78 Section 3. Subsection (4) of section 455.271, Florida
79 Statutes, is amended to read:

80 455.271 Inactive and delinquent status.—

81 (4) An inactive status licensee may change to active status
82 at any time, provided the licensee meets all requirements for
83 active status, pays any additional licensure fees necessary to
84 equal those imposed on an active status licensee, pays any
85 applicable reactivation fees as set by the board, or the
86 department when there is no board, and meets all continuing
87 education requirements as specified in this section. A licensee,

20-01406A-11

20111824

88 except a person licensed under chapter 475, must complete only
89 one renewal cycle of continuing education requirements to
90 reactivate a license.

91 Section 4. Subsection (1) of section 475.42, Florida
92 Statutes, is amended to read:

93 475.42 Violations and penalties.—

94 (1) VIOLATIONS.—

95 (a) A person may not operate as a broker or sales associate
96 without being the holder of a valid and current active license
97 therefor. Any person who violates this paragraph commits a
98 felony of the third degree, punishable as provided in s. 775.082
99 or s. 775.083, or, if a corporation, as provided in s. 775.083.

100 (b) A person licensed as a sales associate may not operate
101 as a broker or operate as a sales associate for any person not
102 registered as her or his employer.

103 (c) A broker may not employ, or continue in employment, any
104 person as a sales associate who is not the holder of a valid and
105 current license as sales associate; but a license as sales
106 associate may be issued to a person licensed as an active
107 broker, upon request and surrender of the license as broker,
108 without a fee in addition to that paid for the issuance of the
109 broker's active license.

110 (d) A sales associate may not collect any money in
111 connection with any real estate brokerage transaction, whether
112 as a commission, deposit, payment, rental, or otherwise, except
113 in the name of the employer and with the express consent of the
114 employer; and no real estate sales associate, whether the holder
115 of a valid and current license or not, shall commence or
116 maintain any action for a commission or compensation in

20-01406A-11

20111824

117 connection with a real estate brokerage transaction against any
118 person except a person registered as her or his employer at the
119 time the sales associate performed the act or rendered the
120 service for which the commission or compensation is due.

121 ~~(e) A person may not violate any lawful order or rule of~~
122 ~~the commission which is binding upon her or him.~~

123 (e)~~(f)~~ A person may not commit any conduct or practice set
124 forth in s. 475.25(1)(b), (c), (d), or (g) ~~(h)~~.

125 (f)~~(g)~~ A person may not make any false affidavit or
126 affirmation intended for use as evidence by or before the
127 commission or a member thereof, or by any of its authorized
128 representatives, nor may any person give false testimony under
129 oath or affirmation to or before the commission or any member
130 thereof in any proceeding authorized by this chapter.

131 (g)~~(h)~~ A person may not fail or refuse to appear at the
132 time and place designated in a subpoena issued with respect to a
133 violation of this chapter, unless because of facts that are
134 sufficient to excuse appearance in response to a subpoena from
135 the circuit court; nor may a person who is present before the
136 commission or a member thereof or one of its authorized
137 representatives acting under authority of this chapter refuse to
138 be sworn or to affirm or fail or refuse to answer fully any
139 question propounded by the commission, the member, or such
140 representative, or by any person by the authority of such
141 officer or appointee; nor may any person, so being present,
142 conduct herself or himself in a disorderly, disrespectful, or
143 contumacious manner.

144 (h)~~(i)~~ A person may not obstruct or hinder in any manner
145 the enforcement of this chapter or the performance of any lawful

20-01406A-11

20111824__

146 duty by any person acting under the authority of this chapter or
147 interfere with, intimidate, or offer any bribe to any member of
148 the commission or any of its employees or any person who is, or
149 is expected to be, a witness in any investigation or proceeding
150 relating to a violation of this chapter.

151 (i)~~(j)~~ A broker or sales associate may not place, or cause
152 to be placed, upon the public records of any county, any
153 contract, assignment, deed, will, mortgage, affidavit, or other
154 writing which purports to affect the title of, or encumber, any
155 real property if the same is known to her or him to be false,
156 void, or not authorized to be placed of record, or not executed
157 in the form entitling it to be recorded, or the execution or
158 recording whereof has not been authorized by the owner of the
159 property, maliciously or for the purpose of collecting a
160 commission, or to coerce the payment of money to the broker or
161 sales associate or other person, or for any unlawful purpose.
162 However, nothing in this paragraph shall be construed to
163 prohibit a broker or a sales associate from recording a judgment
164 rendered by a court of this state or to prohibit a broker from
165 placing a lien on a property where expressly permitted by
166 contractual agreement or otherwise allowed by law.

167 (j)~~(k)~~ A person may not operate as a broker under a trade
168 name without causing the trade name to be noted in the records
169 of the commission and placed on the person's license, or so
170 operate as a member of a partnership or as a corporation or as
171 an officer or manager thereof, unless such partnership or
172 corporation is the holder of a valid current registration.

173 (k)~~(l)~~ A person may not knowingly conceal any information
174 relating to violations of this chapter.

20-01406A-11

20111824

175 (l)~~(m)~~ A person may not undertake to list or sell one or
176 more timeshare periods per year in one or more timeshare plans
177 on behalf of any number of persons without first being the
178 holder of a valid and current license as a broker or sales
179 associate pursuant to this chapter, except as provided in s.
180 475.011 and chapter 721.

181 (m)~~(n)~~ A broker or sales associate may not enter into any
182 listing or other agreement regarding her or his services in
183 connection with the resale of a timeshare period unless the
184 broker or sales associate fully and fairly discloses all
185 material aspects of the agreement to the owner of the timeshare
186 period. Further, a broker or sales associate may not use any
187 form of contract or purchase and sale agreement in connection
188 with the resale of a timeshare period unless the contract or
189 purchase and sale agreement fully and fairly discloses all
190 material aspects of the timeshare plan and the rights and
191 obligations of both buyer and seller. The commission is
192 authorized to adopt rules pursuant to chapter 120 as necessary
193 to implement, enforce, and interpret this paragraph.

194 (n)~~(o)~~ A person may not disseminate or cause to be
195 disseminated by any means any false or misleading information
196 for the purpose of offering for sale, or for the purpose of
197 causing or inducing any other person to purchase, lease, or
198 rent, real estate located in the state or for the purpose of
199 causing or inducing any other person to acquire an interest in
200 the title to real estate located in the state.

201 Section 5. Subsection (1) of section 475.626, Florida
202 Statutes, is amended to read:

203 475.626 Violations and penalties.—

20-01406A-11

20111824__

204 (1) VIOLATIONS.—

205 (a) A ~~No~~ person may not ~~shall~~ operate or attempt to operate
206 as a registered trainee appraiser or licensed or certified
207 appraiser without being the holder of a valid and current
208 registration, license, or certification.

209 ~~(b) No person shall violate any lawful order or rule of the~~
210 ~~board which is binding upon her or him.~~

211 ~~(c) No person shall commit any conduct or practice set~~
212 ~~forth in s. 475.624.~~

213 ~~(b)-(d)~~ A ~~No~~ person may not ~~shall~~ make any false affidavit
214 or affirmation intended for use as evidence by or before the
215 board or any member thereof, or by any of its authorized
216 representatives, nor shall any person give false testimony under
217 oath or affirmation to or before the board or any member thereof
218 in any proceeding authorized by this section.

219 ~~(c)-(e)~~ A ~~No~~ person may not ~~shall~~ fail or refuse to appear
220 at the time and place designated in a subpoena issued with
221 respect to a violation of this section, unless such failure to
222 appear is the result of facts or circumstances that are
223 sufficient to excuse appearance in response to a subpoena from
224 the circuit court; nor shall a person who is present before the
225 board or a member thereof or one of its authorized
226 representatives acting under authority of this section refuse to
227 be sworn or to affirm or fail or refuse to answer fully any
228 question propounded by the board, the member, or such
229 representative, or by any person by the authority of such
230 officer or appointee.

231 ~~(d)-(f)~~ A ~~No~~ person may not ~~shall~~ obstruct or hinder in any
232 manner the enforcement of this section or the performance of any

20-01406A-11

20111824__

233 lawful duty by any person acting under the authority of this
 234 section, or interfere with, intimidate, or offer any bribe to
 235 any member of the board or any of its employees or any person
 236 who is, or is expected to be, a witness in any investigation or
 237 proceeding relating to a violation of this section.

238 (e) ~~(g)~~ A ~~No~~ person may not ~~shall~~ knowingly conceal any
 239 information relating to violations of this section.

240 Section 6. Subsection (2) of section 477.0212, Florida
 241 Statutes, is amended to read:

242 477.0212 Inactive status.—

243 (2) The board shall promulgate rules relating to licenses
 244 which have become inactive and for the renewal of inactive
 245 licenses. The board shall prescribe by rule a fee not to exceed
 246 \$50 for the reactivation of an inactive license and a fee not to
 247 exceed \$50 for the renewal of an inactive license. The board
 248 shall also require a licensee to complete one renewal cycle of
 249 continuing education requirements.

250 Section 7. Subsection (1) of section 477.0265, Florida
 251 Statutes, is amended to read:

252 477.0265 Prohibited acts.—

253 (1) It is unlawful for any person to:

254 (a) Engage in the practice of cosmetology or a specialty
 255 without an active license as a cosmetologist or registration as
 256 a specialist issued by the department pursuant to the provisions
 257 of this chapter.

258 (b) Own, operate, maintain, open, establish, conduct, or
 259 have charge of, either alone or with another person or persons,
 260 a cosmetology salon or specialty salon:

261 1. Which is not licensed under the provisions of this

20-01406A-11

20111824__

262 chapter; or

263 2. In which a person not licensed or registered as a
264 cosmetologist or a specialist is permitted to perform
265 cosmetology services or any specialty.

266 ~~(c) Engage in willful or repeated violations of this~~
267 ~~chapter or of any rule adopted by the board.~~

268 (c)~~(d)~~ Permit an employed person to engage in the practice
269 of cosmetology or of a specialty unless such person holds a
270 valid, active license as a cosmetologist or registration as a
271 specialist.

272 (d)~~(e)~~ Obtain or attempt to obtain a license or
273 registration for money, other than the required fee, or any
274 other thing of value or by fraudulent misrepresentations.

275 (e)~~(f)~~ Use or attempt to use a license to practice
276 cosmetology or a registration to practice a specialty, which
277 license or registration is suspended or revoked.

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

282 (g)~~(h)~~ In the practice of cosmetology, use or possess a
283 cosmetic product containing a liquid nail monomer containing any
284 trace of methyl methacrylate (MMA).

285 Section 8. Subsection (1) of section 481.217, Florida
286 Statutes, is amended to read:

287 481.217 Inactive status.—

288 (1) The board may prescribe by rule continuing education
289 requirements as a condition of reactivating a license. The
290 licensee must complete one renewal cycle of continuing education

20-01406A-11

20111824__

291 requirements in order to reactivate ~~The continuing education~~
292 ~~requirements for reactivating~~ a license for a registered
293 architect ~~may not exceed 12 contact hours for each year the~~
294 ~~license was inactive. The minimum continuing education~~
295 ~~requirement for reactivating a license for a registered interior~~
296 ~~designer shall be those of the most recent biennium plus one-~~
297 ~~half of the requirements in s. 481.215 for each year or part~~
298 ~~thereof during which the license was inactive.~~ The board shall
299 ~~only~~ approve continuing education that builds only upon the
300 basic knowledge of interior design.

301 Section 9. Subsection (1) of section 481.315, Florida
302 Statutes, is amended to read:

303 481.315 Inactive status.—

304 (1) A license that has become inactive or delinquent may be
305 reactivated under this section upon application to the
306 department and payment of any applicable biennial renewal or
307 delinquency fee, or both, and a reactivation fee. The board
308 shall also require a licensee to complete one renewal cycle of
309 continuing education requirements. ~~The board may prescribe by~~
310 ~~rule continuing education requirements as a condition of~~
311 ~~reactivating the license. The continuing education requirements~~
312 ~~for reactivating a license may not exceed 12 classroom hours for~~
313 ~~each year the license was inactive.~~

314 Section 10. Subsections (3) and (6) of section 489.116,
315 Florida Statutes, are amended to read:

316 489.116 Inactive and delinquent status; renewal and
317 cancellation notices.—

318 (3) An inactive status certificateholder or registrant may
319 change to active status at any time, provided the

20-01406A-11

20111824

320 certificateholder or registrant meets all requirements for
321 active status, pays any additional licensure fees necessary to
322 equal those imposed on an active status certificateholder or
323 registrant, ~~and~~ pays any applicable late fees, and completes one
324 renewal cycle of continuing education requirements.

325 (6) An inactive certificateholder or registrant shall
326 complete one renewal cycle of ~~comply with the same~~ continuing
327 education requirements in order to reactive his or her
328 certification or registration, ~~if any, that are imposed on an~~
329 ~~active status certificateholder or registrant.~~

330 Section 11. Subsection (1) of section 489.519, Florida
331 Statutes, is amended to read:

332 489.519 Inactive status.—

333 (1) A certificate or registration that has become inactive
334 may be reactivated under s. 489.517 upon application to the
335 department. The licensee must complete one renewal cycle of
336 continuing education requirements. ~~The board may prescribe, by~~
337 ~~rule, continuing education requirements as a condition of~~
338 ~~reactivating a certificate or registration. The continuing~~
339 ~~education requirements for reactivating a certificate or~~
340 ~~registration may not exceed 12 classroom hours for each year the~~
341 ~~certificate or registration was inactive.~~

342 Section 12. Effective upon this act becoming a law, section
343 10 of chapter 2010-84, Laws of Florida, is amended to read:

344 Section 10. This act shall take effect July 1, 2014 ~~2011~~.

345 Section 13. Except as otherwise expressly provided in this
346 act and except for this section, which shall take effect upon
347 this act becoming a law, this act shall take effect July 1,
348 2011.