

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 615 Professional Regulation

SPONSOR(S): Government Operations & Technology Appropriations Subcommittee; Careers & Competition Subcommittee; Renner and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1272

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	12 Y, 0 N, As CS	Wright	Anstead
2) Government Operations & Technology Appropriations Subcommittee	10 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee	25 Y, 0 N	Wright	Hamon

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) regulates and licenses businesses and professionals in Florida. Certain active duty members and honorably discharged veterans of the Armed Forces and certain spouses are granted exceptions to licensing application fees and requirements in ch. 455, F.S. The bill expands the applicability of these exceptions. Specifically, the bill:

- Creates an initial licensing fee waiver for:
 - members of the Armed Forces who served on active duty,
 - spouses of members of the Armed Forces,
 - surviving spouses of members of the Armed Forces, and
 - low-income individuals whose income is below 130 percent of the poverty level.
- Requires DBPR to issue a professional license to an applicant without an initial licensing fee, and without meeting other statutory requirements and qualifications, if the applicant provides the following:
 - Proof the applicant is or was an active duty member, or is married to an active duty member, or was married to an active duty member at the time of the member's death;
 - Proof the applicant holds a valid license for the profession issued by any other jurisdiction;
 - Proof of bonding or insurance, if applicable; and
 - A set of fingerprints to be used for a statewide criminal history background check.
- Permits the renewal of such licenses, provided the standard conditions of renewal under the applicable practice act are completed.
- Clarifies that Armed Forces exemptions apply to licenses issued under boards and programs specifically listed in s. 20.165, F.S.
- Extends the period of time that active duty members remain in good standing after discharge from active duty from 6 months to 2 years.
- Allows spouses and surviving spouses of active duty members to remain in good standing when they are absent from the state due to their spouse's Armed Forces duties.

The bill has an indeterminate, but likely insignificant negative fiscal impact on revenue and expenditures for DBPR. The bill provides a \$31,000 appropriation to DBPR. See *Fiscal Analysis and Economic Impact Statement*.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Business and Professional Regulation (DBPR), through various divisions, including the Division of Professions (Professions), Division of Certified Public Accounting (Accounting), and Division of Real Estate (Real Estate), regulates and licenses businesses and professionals in Florida.¹

Included within DBPR's authority is the establishment of professional boards and programs. These boards and programs are listed in s. 20.165, F.S.:

- Board of Architecture and Interior Design,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Board of Landscape Architecture,
- Board of Pilot Commissioners,
- Board of Professional Geologists.
- Board of Veterinary Medicine,
- Home inspection services licensing program;
- Mold-related services licensing program,
- Florida Board of Professional Engineers.²
- Board of Accountancy,³
- Florida Real Estate Commission, and
- Florida Real Estate Appraisal Board,⁴

DBPR licenses and regulates each of the above professions in accordance with that profession's practice act. Generally, applicants for licensure for each profession must meet specific statutory requirements, including education and/or experience requirements, and must pay all applicable licensing and application fees.

If an applicant who already has a valid license to practice a profession in another jurisdiction wishes to obtain a license in Florida for the same profession from a board under DBPR, the applicant must:

- meet the same entrance standards as applicants applying for licensure by examination for the same profession (e.g. age, financial responsibility, insurance coverage, experience);
- show evidence that the required exam taken, if an exam is required, is the same or substantially similar to the Florida required exam; and
- pass a Florida-specific exam on laws and rules applicable to the profession, if applicable.⁵

¹ s. 20.165, F.S.

² Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited Feb. 20, 2017).

³ s. 20.165(4)(c), F.S.

⁴ s. 20.165(4)(b), F.S.

⁵ Florida Department of Business and Professional Regulation, *Apply For/Update Licenses*, <https://www.myfloridalicense.com/intentions2.asp> (search conducted March 1, 2017).

Professional Licensure of Active Duty Armed Forces Members and Certain Spouses

Current Situation

Section 455.02, F.S., applies to active duty⁶ members of the Armed Forces of the United States⁷ and their spouses. It provides that any active duty member who had a license in good standing with any administrative board of the state when he or she became an active duty member shall be kept in good standing without performing any further acts or paying any further fees, as long as the person is on active duty and for six months after discharge and not engaged in the profession in the private sector for profit.⁸

Boards within DBPR are required to adopt rules exempting the spouses of active duty members from licensure renewal provisions when they are absent from the state due to their spouse's duties in the Armed Forces.⁹

DBPR may issue 6-month temporary and non-renewable licenses to spouses of active duty members, if the applicant provides:

- proof that the applicant is married to an active duty member;
- proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction;
- proof that the applicant's spouse is assigned to a duty station in Florida;
- fingerprints for a criminal history check; and
- an application fee,¹⁰ ranging from \$140 to \$212, depending on the profession.¹¹

Applicants for licenses under the Construction Industry Licensing Board, Electrical Contractors' Licensing Board, mold-related services program, and home inspectors program are required to present proof of insurance or bonding at the time of application.¹²

Effect of the Bill

The bill clarifies that s. 455.02, F.S., applies to licenses issued under boards and programs listed in s. 20.165, F.S.

The bill extends the time period from 6 months to 2 years for an active duty member to remain in good standing with any of the boards or programs listed in s. 20.165, F.S., after discharge from active duty.

The bill includes surviving spouses of active duty members in licensing exemptions under ss. 455.02(2) and (3), F.S., and the bill also provides that active duty member spouses and surviving spouses who are in good standing with any of the boards or programs listed in s. 20.165, F.S., will be kept in good standing with the applicable board or program when they are absent from the state due to their spouse's Armed Forces duties.

The bill requires DBPR to issue a fee-waived professional renewable license to an applicant who was or is an active duty member, or spouse or surviving spouse of an active duty member, if the applicant provides the following:

⁶ Full-time duty in the active military service of the United States. 10 U.S.C. § 101(d)(1).

⁷ Includes the United States Army, Navy, Air Force, Marine Corps, and Coast Guard. 10 U.S.C. § 101(a)(4).

⁸ s. 455.02(1), F.S.

⁹ s. 455.02(2), F.S.

¹⁰ s. 455.02(3)(a), F.S.

¹¹ Florida Department of Business and Professional Regulation, *Application for Temporary License for Military Spouse* at 7, http://www.myfloridalicense.com/dbpr/pro/division/documents/temp_license_for_military_spouse_app.pdf (last visited March 2, 2017).

¹² s. 468.8322, F.S.; s. 468.8414, F.S.; 489.115(5)(a), F.S.; s. 489.505(3)(a), F.S.

- proof that the applicant is or was an active duty member, or is married to an active duty member, or was married to an active duty member who at the time of the member's death was serving as an active duty member;
- proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction;
- proof of certain bonding or insurance, if required by the specific practice act; and
- a set of fingerprints to be used for a statewide criminal history check to determine if the applicant meets licensure requirements. Fingerprinting processing fees are applicable.

The bill provides that applicants who are issued licenses under these circumstances may renew such licenses, provided they complete the conditions of renewal required of licensees under the applicable practice act. This includes completing continuing education requirements.

License Fee Waivers for Military Members and Certain Spouses

Current Situation

Although active duty members, their spouses, and surviving spouses must pay an initial application fee for a professional license issued pursuant to specific practice acts, honorably discharged military veterans and their spouses at the time of discharge have their initial licensing fees, the initial application fees, and the initial unlicensed activity fees waived by DBPR if they apply for a license within 60 months of discharge.¹³

Initial professional license fees range in price from \$25 for a hair braiding, hair wrapping, or body wrapping registration to \$500 for a veterinarian license obtained by endorsement.¹⁴ Temporary license fees range from \$140 to \$212, depending on the profession.¹⁵

Effect of the Bill

The bill extends an initial licensing fee waiver to the following applicants, if they submit a fee waiver application:

- members of the Armed Forces who have served on active duty,
- spouses of members of the Armed Forces who were married to the members during a period of active duty, and
- surviving spouses of members of the Armed Forces who at the time of death were serving on active duty.

The bill requires that DBPR process a fee waiver application within 30 days of receipt.

License Fee Waivers for Low-income Individuals

Current Situation

Currently, there are no application fee waivers for DBPR professional licenses based on income.

The federal poverty guidelines as defined by the United States Department of Health and Human Services (HHS) are as follows:¹⁶

¹³ s. 455.213(12), F.S.

¹⁴ *Id.*

¹⁵ Application for Temporary License for Military Spouse, *supra* at 7.

¹⁶ United States Department of Health and Human Services, *Poverty Guidelines*, <https://aspe.hhs.gov/poverty-guidelines> (last visited March 1, 2017).

Persons in Family/Household	Poverty Guideline for 48 Contiguous States and the District of Columbia	Poverty Guideline for Alaska	Poverty Guideline for Hawaii
1	\$12,060	\$15,060	\$13,860
2	\$16,240	\$20,290	\$18,670
3	\$20,420	\$25,520	\$23,480
4	\$24,600	\$30,750	\$28,290
5	\$28,780	\$35,980	\$33,100
6	\$32,960	\$41,210	\$37,910
7	\$37,140	\$46,440	\$42,720
8	\$41,320	\$51,670	\$47,530

'Public assistance' is generally defined as government aid to the poor, disabled, or aged, or to dependent children.¹⁷ One example of an income-dependent public assistance program¹⁸ is the Supplemental Nutrition Assistance Program (SNAP). It is a program which provides nutrition assistance and benefits to low-income individuals and families. In order to qualify for SNAP, a household must not make more than 130 percent of the applicable poverty guideline.¹⁹

Effect of the Bill

The bill extends an initial licensing fee waiver to low-income individuals, if they submit a fee waiver application.

'Low-income individual' is defined in the bill as a person whose household income, before taxes, is at or below 130 percent of the federal poverty guidelines prescribed for the family's household size by HHS. Income may be demonstrated through enrollment in a public assistance program which limits participants to those whose household income is at or below 130 percent of the federal poverty level.

The bill requires that DBPR process a fee waiver application within 30 days of receipt.

The bill has an effective date of July 1, 2017.

B. SECTION DIRECTORY:

- Section 1: Amends s. 455.02, F.S., allowing active duty Armed Forces members, spouses, and surviving spouses to: remain in good standing with certain boards or programs, obtain an initial license under certain conditions, and waive the initial license fee, under certain circumstances.
- Section 2: Amends s. 455.219, F.S., allowing initial license fee waivers for former and current active duty members, certain spouses or surviving spouses of active duty members, and certain low-income individuals.
- Section 3: Provides an appropriation.
- Section 4: Provides an effective date of July 1, 2017.

¹⁷ Dictionary.com, LLC, *Public Assistance*, <http://www.dictionary.com/browse/public-assistance> (last visited March 1, 2017).
¹⁸ Comprehensive lists of available public assistance programs per state are located on Benefits.gov, the official benefits website of the United States government. Benefits.gov, *About Us*, <https://www.benefits.gov/about-us> (last visited March 2, 2017).
¹⁹ United States Department of Agriculture, *Supplemental Nutrition Assistance Program (SNAP)*, <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap> (last visited March 1, 2017).
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II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

It is likely that DBPR will see some loss of revenues based on active duty members, their spouses or surviving spouses, or low-income individuals, applying for licensure and having licensing fees waived. Since temporary active member spouse licensing was initiated in 2010, 48 temporary licenses have been issued. Since fee waiver provisions for honorably discharged veterans and their spouses were initiated in 2012, 680 honorably discharged license fee waivers have been granted; 237 were granted in 2016 alone.²⁰ Although it is not known how many active duty military members, their spouses or surviving spouses, or low-income individuals, apply for licensure each year, the estimated loss of revenue is likely to be insignificant.

2. Expenditures:

DBPR may see an increase in the number of applications received from active military members, their spouses or surviving spouses, and low-income individuals, which may increase staff workloads. However, the fiscal impact and potential workload increase are likely to be insignificant.

The bill appropriates \$31,000 in nonrecurring funds from the Administrative Trust Fund to DBPR for technology and licensing modifications needed to implement the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be an increase in the number of people in the workforce practicing their chosen professions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

²⁰ Email from Jo Morris, Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: Info (Mar. 3, 2017).

B. RULE-MAKING AUTHORITY:

DBPR will need to adopt rules to implement this bill, including rules regarding application forms, documentation requirements, and licensure verification procedures to be developed for issuance of the permanent licenses, authority for which is granted in the bill or current statutes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Careers and Competition Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment adds the following elements to the original bill:

- Clarifies that the bill applies to licenses issued by boards **or programs** listed in s. 20.165, F.S.;
- Requires compliance with bonding or insurance requirements if required by the specific practice act;
- Clarifies the definition of 'low-income individual.'

On March 21, 2017, the Government Operations & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides an appropriation for costs associated with technology infrastructure and licensing modifications needed to implement the bill.

The analysis is drafted to the committee substitute as passed by the Careers and Competition Subcommittee.