



459104

LEGISLATIVE ACTION

Senate

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House

The Committee on Regulated Industries (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 72 - 254

and insert:

certificate issued by the agency. The petition may include mitigating factors or other information the petitioner believes relevant to establish the petitioner's eligibility, including, but not limited to, the time elapsed since completion of or lawful release from confinement, supervision, or nonmonetary condition imposed by the court for a disqualifying offense, and



459104

11 the petitioner's standing in his or her community. A person may
12 seek a declaratory statement under this subsection before
13 attaining any education, training, experience, or other
14 prerequisites for the license, registration, or certification.

15 (b) The agency may not determine that a petitioner's
16 criminal background makes him or her ineligible for a specific
17 occupational or professional license, registration, or
18 certificate unless:

19 1. The petitioner has been convicted of a felony or a
20 violent misdemeanor; and

21 2. The agency determines by clear and convincing evidence
22 that such offense is substantially related to the state's
23 interest of protecting the public health and safety and that
24 granting the license would place the petitioner in a position
25 where the petitioner is likely to harm consumers.

26 (c) The agency's conclusion in the declaratory statement
27 must indicate whether:

28 1. The petitioner is disqualified from obtaining the
29 license, registration, or certification due to the petitioner's
30 criminal background, regardless of the petitioner's education,
31 training, experience, or other prerequisites required for the
32 license, registration, or certification.

33 2. The petitioner is not eligible for a specified
34 occupational or professional license, registration, or
35 certification because of his or her criminal background, but
36 that the conclusion may be reversed upon the petitioner's
37 presentation of evidence of rehabilitation or mitigation
38 identified by the agency in the declaratory statement at any
39 time subsequent to the issuance of the declaratory statement.



459104

40 3. Federal laws or regulations may impede the petitioner's
41 licensure, registration, or certification in the profession or
42 occupation.

43 4. Conditions or restrictions imposed by the court on the
44 petitioner for a disqualifying offense may impede the
45 petitioner's licensure, registration, or certification in the
46 profession or occupation.

47 (d) The agency's conclusion in the declaratory statement
48 shall be binding on the agency as to the petitioner, unless the
49 petitioner's subsequent criminal history constitutes an
50 independent basis for denial of the petitioner's application for
51 a license, registration, or certification in the profession or
52 occupation. The agency's conclusion is subject to judicial
53 review pursuant to s. 120.68.

54 (e) A person seeking a declaratory statement under this
55 subsection must submit to the agency, in addition to the
56 petition for a declaratory statement:

57 1. A fee set by the agency not to exceed \$100;

58 2. A certified copy of each criminal judgment rendered
59 against the petitioner; and

60 3. A complete set of electronic fingerprints.

61 (f) The agency shall submit the fingerprints to the
62 Department of Law Enforcement for a state criminal history
63 record check and the Department of Law Enforcement shall forward
64 them to the Federal Bureau of Investigation for a national
65 criminal history record check. The agency shall review the
66 criminal history record results to determine if the petitioner
67 meets licensure, registration, or certification requirements.
68 The petitioner shall pay the actual cost of state and federal



459104

69 processing in addition to the fee in subparagraph (e)1.

70 Section 2. Present subsections (3) through (12) of section
71 455.213, Florida Statutes, are redesignated as subsections (4)
72 through (13), respectively, subsection (2) of that section is
73 amended, and a new subsection (3) is added to that section, to
74 read:

75 455.213 General licensing provisions.-

76 (2) Before the issuance of any license, the department may
77 charge an initial license fee as determined by rule of the
78 applicable board or, if no such board exists, by rule of the
79 department. Upon receipt of the appropriate license fee, except
80 as provided in subsection (4) ~~(3)~~, the department shall issue a
81 license to any person certified by the appropriate board, or its
82 designee, or the department when there is no board, as having
83 met the applicable requirements imposed by law or rule. However,
84 an applicant who is not otherwise qualified for licensure is not
85 entitled to licensure solely based on a passing score on a
86 required examination. Upon a determination by the department
87 that it erroneously issued a license, or upon the revocation of
88 a license by the applicable board, or by the department when
89 there is no board, the licensee must surrender his or her
90 license to the department.

91 (3) (a) Notwithstanding any other provision of law, the
92 board shall use the process in this subsection for review of an
93 applicant's criminal record to determine his or her eligibility
94 for licensure as a:

95 1. Barber under chapter 476;

96 2. Cosmetologist or cosmetology specialist under chapter
97 477; or



459104

98 3. Any of the following construction professions under
99 chapter 489:

100 a. Air-conditioning contractor;

101 b. Electrical contractor;

102 c. Mechanical contractor;

103 d. Plumbing contractor;

104 e. Pollutant storage systems contractor;

105 f. Roofing contractor;

106 g. Septic tank contractor;

107 h. Sheet metal contractor;

108 i. Solar contractor;

109 j. Swimming pool and spa contractor;

110 k. Underground utility and excavation contractor; and

111 l. Other specialty contractors.

112 (b) The board may not find an applicant ineligible for a
113 license based on his or her criminal background unless:

114 1. The applicant has been convicted of a felony or a
115 violent misdemeanor; and

116 2. The board determines by clear and convincing evidence
117 that such offense is substantially related to the state's
118 interest of protecting the public health and safety.

119 (c)1. A person may apply for a license before his or her
120 lawful release from confinement or supervision. The department
121 may not charge an applicant an additional fee for being confined
122 or under supervision. The board may not deny an application for
123 a license solely on the basis of the applicant's current
124 confinement or supervision.

125 2. After a license application is approved, the board may
126 stay the issuance of a license until the applicant is lawfully



459104

127 released from confinement or supervision and the applicant
128 notifies the board of such release. The board must verify the
129 applicant's release with the Department of Corrections before it
130 issues a license.

131 3. If an applicant is unable to appear in person due to his
132 or her confinement or supervision, the board must permit the
133 applicant to appear by teleconference or video conference, as
134 appropriate, at any meeting of the board or other hearing by the
135 agency concerning his or her application.

136 4. If an applicant is confined or under supervision, the
137 Department of Corrections and the board shall cooperate and
138 coordinate to facilitate the appearance of the applicant at a
139 board meeting or agency hearing in person, by teleconference, or
140 by video conference, as appropriate.

141 Section 3. Present subsections (2) through (8) of section
142 464.203, Florida Statutes, are redesignated as subsections (3)
143 through (9), respectively, and a new subsection (2) is added to
144 that section, to read:

145 464.203 Certified nursing assistants; certification
146 requirement.—

147 (2) (a) 1. Except as provided in s. 435.07(4), the board may
148 not deny a person a certificate based on his or her criminal
149 background unless:

150 a. The person has been convicted of a felony or a violent
151 misdemeanor; and

152 b. The board determines by clear and convincing evidence
153 that such offense is substantially related to the state's
154 interest of protecting the public health and safety.

155 (b) 1. A person may apply for a certificate to practice as a



459104

156 certified nursing assistant before his or her lawful release
157 from confinement or supervision. The department may not charge
158 an applicant an additional fee for being confined or under
159 supervision. The board may not deny an application for a
160 certificate solely on the basis of the person's current
161 confinement or supervision.

162 2. After a certification application is approved, the board
163 may stay the issuance of a certificate until the applicant
164 notifies the board of his or her lawful release from confinement
165 or supervision. The board must verify the applicant's release
166 with the Department of Corrections before it issues a license.

167 3. If an applicant is unable to appear in person due to his
168 or her confinement or supervision, the board must permit the
169 applicant to appear by teleconference or video conference, as
170 appropriate, at any meeting of the board or other hearing by the
171 agency concerning his or her application.

172 4. If an applicant is confined or under supervision, the
173 Department of Corrections and the board shall cooperate and
174 coordinate to facilitate the appearance of the applicant at a
175 board meeting or agency hearing in person, by teleconference, or
176 by video conference, as appropriate.

177
178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete lines 10 - 60

181 and insert:

182 prohibiting an agency from determining that a
183 petitioner's criminal background makes him or her
184 ineligible for a specific occupational or professional



459104

185 license, registration, or certificate unless certain
186 conditions are met; requiring that an agency's
187 conclusion in the declaratory statement contain
188 certain statements; providing that the agency's
189 conclusion is binding except under certain
190 circumstances; requiring a person seeking a
191 declaratory statement to submit certain items to the
192 agency and pay certain fees and costs; providing
193 requirements for the processing of the fingerprints;
194 requiring the petitioner to pay the actual cost of
195 processing the fingerprints; amending s. 455.213,
196 F.S.; conforming a cross-reference; requiring the
197 board to use a specified process for the review of an
198 applicant's criminal record to determine the
199 applicant's eligibility for certain licenses;
200 prohibiting the board from finding an applicant
201 ineligible for a license based on his or her criminal
202 background unless certain conditions are met;
203 authorizing a person to apply for a license before his
204 or her lawful release from confinement or supervision;
205 prohibiting additional fees for an applicant confined
206 or under supervision; prohibiting the board from
207 basing a denial of a license application solely on the
208 applicant's current confinement or supervision;
209 authorizing the board to stay the issuance of an
210 approved license under certain circumstances;
211 requiring the board to verify an applicant's release
212 with the Department of Corrections; providing
213 requirements for the appearance of certain applicants



459104

214 at certain meetings; amending s. 464.203, F.S.;

215 prohibiting the board from denying a person a

216 certificate based on his or her criminal background

217 unless certain conditions are met; authorizing a

218 person to apply for certification before his or her

219 lawful release from confinement or supervision;

220 prohibiting additional fees for an applicant confined

221 or under supervision; prohibiting the board from

222 basing the denial of a certification solely on the

223 applicant's current confinement or supervision;

224 authorizing the board to stay the issuance of an

225 approved certificate under certain circumstances;

226 requiring the board to verify an applicant's release

227 with the Department of Corrections; providing

228 requirements for the appearance of certain applicants

229 at certain meetings; amending s. 400.211, F.S.;

230 conforming a