

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1193 Deregulation of Professions and Occupations

SPONSOR(S): Commerce Committee, Ingoglia

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 474

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|---------------------|----------|--|
| 1) Business & Professions Subcommittee | 12 Y, 3 N | Wright | Anstead |
| 2) Government Operations & Technology Appropriations Subcommittee | 10 Y, 2 N | Helpling | Topp |
| 3) Commerce Committee | 23 Y, 0 N, As CS | Wright | Hamon |

SUMMARY ANALYSIS

The bill relates to various businesses and professions regulated by the Department of Business and Professional Regulation. The bill, cited as the "Occupational Freedom and Opportunity Act," does the following:

- Deregulates:
 - Hair braiders, hair wrappers, body wrappers, nail polishers and makeup applicators; and
 - Boxing announcers and timekeepers.
- Partially deregulates the following professions, while maintaining civil and criminal causes of action:
 - Talent agents, and
 - Labor organizations.
- Eliminates the additional business license required for the following licensees:
 - Architects and Interior Designers,
 - Landscape architects, and
 - Geologists.
- Reduces the hours of training required to obtain a license for:
 - Barbers and restricted barbers, and
 - Nail, facial, and full specialists.
- Adds new ways for out of state professionals to obtain a license in the state for:
 - Veterinarians,
 - Construction and Electrical contractors,
 - Landscape architects,
 - Geologists,
 - Engineers,
 - Certified public accountants,
 - Home inspectors,
 - Building code professionals, and
 - Cosmetologists and Barbers.
- Replaces the current licensing scheme for interior designers with a registration for certain activities.
- Reduces the number of members on the Florida Building Commission.
- Authorizes an unlicensed individual to provide compensated dietary and nutritional information as long as such individuals do not represent that they are licensed dietitians or nutritionists.
- Preempts food truck regulation to the state, with certain exceptions.
- Waives certain requirements to obtain a commercial driver license for military veterans.
- Prohibits certain agencies from disciplining a licensee based solely on defaulting on a student loan.

The bill has a significant negative fiscal impact to state revenues including a \$3.6 million reduction over the next three fiscal years. For more details, see *Fiscal Analysis and Economic Impact Statement*.

The bill has an effective date of July 1, 2020, except where otherwise indicated.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Occupational Licensing

An occupational or professional license is a form of regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain permission from the government to perform the work.¹ Generally, an individual obtains such permission by demonstrating that they have the designated knowledge, skills, and abilities to perform the work by meeting pre-determined criteria established by the government, such as work experience and examinations. If the individual successfully completes the pre-determined criteria, the government issues the individual a license, which allows them to perform the work.²

In the 1950s, less than five percent of U.S. workers were required to have an occupational license to do their jobs. Since then, the number of workers required to have a license has risen to more than one-quarter of U.S. workers, and an estimated 28.7 percent of the Florida workforce requires a license from the state.³

In 2015, The White House published a report on the current state of occupational licensing in the nation. The report found that when designed and implemented carefully, requiring occupational licenses offers important health and safety protections to consumers, as well as benefits to workers. However, the report also found that too often licensing requirements are inconsistent, inefficient, arbitrary, and there is evidence that the current licensing regimes in the U.S. raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines.⁴

Organizational Structure of the Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses businesses and professionals in Florida through the following divisions:

- The Division of Administration,
- The Division of Alcoholic Beverages and Tobacco,
- The Division of Certified Public Accounting,
- The Division of Drugs, Devices, and Cosmetics,
- The Division of Florida Condominiums, Timeshares, and Mobile Homes,
- The Division of Hotels and Restaurants,
- The Division of Pari-mutuel Wagering,
- The Division of Professions,
- The Division of Real Estate,
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.⁵

The Division of Professions (Professions) licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,

¹ The White House, *Occupational Licensing: A Framework for Policymakers*, 6 (July 2015)

https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf (last visited on Dec. 30, 2019).

² Bureau of Labor Statistics, *Frequently asked questions about data on certifications and licenses*, <https://www.bls.gov/cps/certifications-and-licenses-faqs.htm>, (last visited on Nov. 26, 2019).

³ White House, *supra* note 1, at 3.

⁴ *Id.*, at 3-5.

⁵ S. 20.165, F.S.

- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists,
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.⁶

The Division of Regulation (Regulations) is the enforcement authority for Labor Organizations and Business Agents, the Florida State Boxing Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.⁷ To ensure compliance with applicable laws and rules by those professions and related businesses, Regulations investigates complaints, utilizes compliance mechanisms, and performs inspections.⁸

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.⁹ FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction limited to arbitration of election and recall disputes).¹⁰

For each professional licensed issued by DBPR, DBPR charges an application fee set by the applicable board, or by DBPR if there is no board for the profession. DBPR also imposes a \$5 unlicensed activity fee on each occupational license, in order to fund efforts to combat unlicensed activity.¹¹

Also, for professional licenses granted by DBPR, a license by endorsement means a license granted to an applicant based on their license in another jurisdiction. Section 455.227(2), F.S., allows DBPR or an applicable board to deny a license application based on an applicant's license history in another jurisdiction.¹²

Barbering

Background

⁶ Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/> (last visited Jan. 9, 2020).

⁷ Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers. Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/DBPR/division-of-regulation/> (last visited Dec. 19, 2019).

⁸ Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/DBPR/division-of-regulation/> (last visited Dec. 19, 2019).

⁹ Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/> (last visited Jan. 9, 2020).

¹⁰ *Id.*

¹¹ S. 455.2281, F.S.

¹² S. 455.227(1)(f), (2)(a), F.S.

Barbers, restricted barbers, and barbershops are regulated by ch. 476, F.S., and by the Barbers' Board.

'Barbering' means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances."¹³

A 'restricted barber' is a person who has a restricted license to practice barbering that limits the licensee's practice to specific areas of demonstrated competence pursuant to rules adopted by the board.

To be eligible for licensure, barbers and restricted barbers must:

- be at least 16 years old,
- complete 1,200 hours of training,¹⁴ which can cost between \$2,000 and \$11,000,¹⁵
- pass the applicable written examination,¹⁶ and
- pay a \$205 fee.¹⁷

Barbers and restricted barbers are required to complete 2 hours of continuing education every two years, which must be focused on HIV/AIDS topics.¹⁸

Barbers licensed in another state are eligible for a license by endorsement in Florida if they have completed:¹⁹

- at least 1,200 educational hours,
- a written exam, and
- a 2 hour HIV/AIDS course.

For the 2018-2019 Fiscal Year, there were 21,248 barbers in the state. DBPR received 666 complaints against barbers, and took 405 disciplinary actions.²⁰

Effect of the Bill

The bill reduces the number of required hours of training from 1,200 to 900 for barbers and from 1,200 to 600 for restricted barbers. The type of training required is limited to sanitation, safety, laws, and rules. This change will be effective January 1, 2021.

The bill allows full license reciprocity in Florida for applicants who hold a barber license in another state, without needing to pass a written examination.

¹³ S. 476.034(2), F.S.

¹⁴ Under certain circumstances, an applicant may take the exam after completing 1,000 hours of training. If he or she passes the exam, no more training is required. S. 476.114(c)2., F.S.

¹⁵ CostHHelper, Inc., How Much Does Barber School Cost?, <https://education.costhelper.com/barber-school.html> (last visited Jan. 9, 2020).

¹⁶ R. 61-35.006, F.A.C.

¹⁷ Email from Colton Madill, Deputy Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: DBPR Fee Schedule (Jan. 3, 2020).

¹⁸ S. 455.2228, F.S.

¹⁹ S. 476.144, F.S.

²⁰ Florida Department of Business and Professional Regulation, *2018-2019 Annual Report*, pp.19, 90.

Cosmetology and Cosmetology Salons

Background

Cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers, and related salons in the state are regulated in accordance with ch. 477, F.S., and by the Board of Cosmetology.

The term '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."²¹

To be eligible for licensure, a cosmetologist must:

- be at least 16 years old,
- complete 1,200 hours of training, which typically costs between \$5,000 and \$20,000,²²
- pass an examination, and
- pay an initial license fee of \$63.50.²³

In order to renew a cosmetology license or specialty registration, a licensee must complete 16 hours of continuing education biennially.²⁴

Cosmetologists and specialists licensed in other states are eligible for a license by endorsement in Florida if they have been licensed for more than 1 year or have completed the required hours of education for the equivalent Florida license, and completed a 2 hour HIV/AIDS course.²⁵

For 2018-2019 Fiscal Year, there were 253,065 cosmetologists and specialists in the state. DBPR received 2,091 complaints, and took 1,323 disciplinary actions.²⁶

Specialty Registrations

A 'specialist' is defined as any person holding a specialty registration in one or more of the following cosmetology specialties:²⁷

- 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.

A nail specialist may complete manicures and pedicures. A facial specialist may complete facials. A full specialist may complete manicures, pedicures, and facials.²⁸

²¹ S. 477.013, F.S.

²² BeautySchools.com, *The Cost of Beauty School*, <https://www.beautyschools.com/the-cost-of-beauty-school/> (last visited Dec. 19, 2019).

²³ DBPR, *supra* note 13.

²⁴ S. 477.019(7)(a), F.S.

²⁵ S. 477.019(1)(c), F.S.

²⁶ DBPR, *supra* note 16.

²⁷ S. 477.013, F.S.

²⁸ R. 61G5-29.001, F.A.C.

To qualify for a specialist registration, the applicant must:²⁹

- be at least 16 years old;
- register with DBPR and pay the \$75 registration fee; and
- obtain a certificate of completion from an approved specialty education program, consisting 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.³⁰

Currently, a person who applies polish or paint to fingernails and toenails or makeup for compensation needs a cosmetology or specialty license.³¹

There are 40,355 nail specialists, 29,556 facial specialists, and 33,257 full specialists. In fiscal year 2018-2019, for nail specialists, DBPR received 142 complaints and took 81 disciplinary actions; for facial specialists, DBPR received 74 complaints and took 9 disciplinary actions; and for full specialists, DBPR received 78 complaints and took 75 disciplinary actions.³²

Hair Braiding, Hair Wrapping, and Body Wrapping Registrations

'Hair braiding' means the "weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts."³³

'Hair wrapping' means the "wrapping of manufactured materials around a strand or strands 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."³⁴

'Body wrapping' means a "treatment program that uses herbal wraps for the purposes 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."³⁵

A person who wishes to practice as a hair braider, hair wrapper, or body wrapper must:³⁶

- be at least 16 years old;
- register with DBPR and pay the \$25 registration fee; and
- for hair braiders, take a two-day board-approved 16-hour course that consists of:
 - 5 hours on HIV/AIDS and other communicable diseases,
 - 5 hours on sanitation and sterilization,
 - 4 hours on disorders and diseases of the scalp, and
 - 2 hours on studies regarding laws affecting hair braiding;
- for hair wrappers, take a one-day board-approved 6-hour course that consists of education in:
 - HIV/AIDS and other communicable diseases,
 - sanitation and sterilization,
 - disorders and diseases of the scalp, and
 - studies regarding laws affecting hair wrapping;
- for body wrappers, take a two-day board-approved 12-hour course that consists of education in:
 - HIV/AIDS and other communicable diseases,
 - sanitation and sterilization,
 - disorders and diseases of the skin, and

²⁹ S. 477.0201, F.S.

³⁰ Ch. 61G5-22, F.A.C.

³¹ Texas currently allows makeup application for compensation without a license. Tex. Occ. Code Ann § 1602.003(b)(3) (West 2015).

³² DBPR, *supra* note 13.

³³ S. 477.013(9), F.S.

³⁴ S. 477.013(10), F.S.

³⁵ S. 477.013(11), F.S.

³⁶ Described in ss. 477.013 and 477.0132, F.S.

- studies regarding laws affecting body wrapping.³⁷

Continuing education is not required of hair braiders, hair wrappers, and body wrappers.³⁸ Hair braiding, hair wrapping, and body wrapping are not required to be performed in a licensed salon.³⁹

There are 4,882 hair braiders, 1,183 hair wrappers, and 6,883 body wrappers. In fiscal year 2018-2019, for hair braiders, DBPR received 37 complaints and took 13 disciplinary actions; for hair wrappers, DBPR received 3 complaints and took 2 disciplinary actions; and for body wrappers, DBPR received 4 complaints and took no disciplinary actions.⁴⁰ These actions generally do not involve consumer injury, but are technical scope of practice violations (e.g., practicing with an expired license or failing to timely renew the license).⁴¹

Cosmetology Salons

In Florida, cosmetology and specialty salons must be licensed.⁴² Such salons are inspected periodically by DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.⁴³

Generally, all cosmetology services must be performed in a licensed cosmetology or specialty salon and be performed by a properly licensed professional.⁴⁴ However, there are limited exceptions that allow certain services to be performed outside of a salon. Exceptions to this requirement include when services are performed for:⁴⁵

- a special event⁴⁶ 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.
- 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.
- the motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.

Effect of the Bill

The bill reduces the amount of training hours required for specialty registrations to:

- 180 hours from 240 hours for nail specialists,
- 220 hours from 260 hours for facial specialists, and
- 400 hours from 500 hours for full specialists.

The bill provides that the reduction of training hours will be effective January 1, 2021, and must focus on sanitation and safety. The bill also provides that the hours for full specialists are intended to conform with Pell Grant requirements.

³⁷Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$250. Examples include: 1STOPCEU.com, Home, <https://www.1stopceu.com/> (last visited Dec. 19, 2019); and JT's Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, <http://www.jtbeautysalon.com/courses.html> (last visited Dec. 19, 2019).

³⁸ S. 477.019(7)(b), F.S.

³⁹ S. 477.0132(2), F.S.

⁴⁰ Email from Colton Madill, Deputy Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: License Numbers (Mar. 16, 2019).

⁴¹ Florida Department of Business and Professional Regulation, Agency Analysis of 2017 Senate Bill 802, 4 (March 2, 2017).

⁴² S. 477.025(1), F.S.

⁴³ S. 477.025(9), F.S.; Ch. 61G5-20, F.A.C.

⁴⁴ S. 477.0263(1), F.S.

⁴⁵ S. 477.0263(2)-(4), F.S.

⁴⁶ Defined by board rule as a wedding or fashion show. R. 61G5-20.0015(1), F.A.C.

The bill removes all licensure and regulatory requirements⁴⁷ for:

- hair braiders,
- hair wrappers,
- body wrappers,
- nail polishers or painters, and
- makeup applicators.

The bill defines makeup application to include application of makeup primer, face paint, lipstick, eyeliner, eye shadow, foundation, rouge or cheek color, mascara, strip lashes, individual lashes, face powder, corrective stick, and makeup remover. Makeup application does not include manual or chemical exfoliation, semi-permanent lash application, lash or brow tinting, or hair removal.

The bill expands the scope of hair braiding to include weaving or interweaving commercial hair without the use of adhesives or bonders and the ability to use extensions or wefts, which will also be allowed to be performed without a license.

The bill reduces the amount of biennial continuing education required of cosmetologists and specialists for license renewal from 16 hours to 10 hours.

The bill also removes the requirement that a licensed cosmetologist must work through a salon for special events, thus allowing cosmetology services to be performed in connection with a special event by a licensed professional who is not employed by a licensed salon. It also removes the requirement that an appointment for a special event must be made through a licensed salon.

The bill allows hair shampooing, hair cutting, hair arranging, nail polish removal, nail filing, nail buffing, and nail cleansing to be performed outside of a salon by a properly licensed professional who is not employed by a licensed salon, regardless of whether the service is in connection with a special event.

The bill allows full license reciprocity in Florida for applicants who hold a cosmetology or specialty license in another state.

Talent Agencies

Background

Talent agencies are regulated by part VII of ch. 468, F.S. A talent agency is defined as “[a]ny person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist.”⁴⁸ Individuals are prohibited from owning, operating, soliciting business, or otherwise engaging in or carrying on the occupation of a talent agency in this state unless the person first obtains licensure for the talent agency.⁴⁹

To qualify for a talent agency license, each owner and operator must be of good moral character and identify financial interests in any other business of like nature.⁵⁰ For a determination of good moral character, each application must include a full set of fingerprints of each owner and operator, and if the talent agency is a corporation, each principal officer, so that DBPR may conduct a full fingerprint and police records search.⁵¹

At the time of application, applicants for a talent agency license must pay an initial licensing fee of \$705. The biennial renewal fee is \$405.⁵²

Licensed talent agencies are required to:⁵³

⁴⁷ The bill also makes conforming changes to cross-references.

⁴⁸ S. 468.401, F.S.

⁴⁹ S. 468.403(1), F.S.

⁵⁰ S. 468.405, F.S.

⁵¹ S. 467.403(3), F.S.

⁵² DBPR, *supra* note 13.

⁵³ Ss. 468.406, 410, F.S.

- File an itemized schedule of maximum fees, charges, and commissions;
- Pay to the artist all money collected from an employer for the benefit of an artist within five business days after receipt of the money;
- Display a copy of the license conspicuously in the place of business;
- File a bond with DBPR in the form of a surety for the penal sum of \$5,000, which may be drawn upon if a person is aggrieved by the misconduct of the talent agency;
- Maintain records including the application, registration, or contract of each artist;
- Provide a copy of the contract to the artist within 24 hours of the contract's execution; and
- Comply with talent agency regulations and prohibitions.

Licensed talent agencies are prohibited from:⁵⁴

- Charging the artist a registration fee;
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop; and
- Sexual misconduct.

Section 468.413, F.S., provides criminal penalties for:

- Operating a talent agency without a license;
- Obtaining a license through misrepresentation;
- Assigning a license to another individual;
- Relocating a talent agency without notifying the DBPR;
- Failing to provide information on an application regarding related businesses;
- Failing to maintain records;
- Requiring an artist to subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop;
- Failing to provide a copy of the contract to an artist;
- Failing to maintain a record sheet; and
- Knowingly sending an artist to an employer the licensee knows to be in violation of the laws of Florida or of the United States.

For the 2018-2019 Fiscal Year, there were 418 talent agents in the state. DBPR received 58 complaints against talent agents, and did not take any disciplinary actions against talent agents.⁵⁵

Effect of the Bill

The bill repeals all provisions which require talent agents to be licensed and regulated by DBPR. However, talent agent will still be required to maintain a bond.

The bill still requires talent agents to comply with the following requirements:

- Fee posting;
- Schedule posting;
- Maintenance of specific records;
- Obtaining a bond; and
- Contract provisions and availability.

The bill requires bonding agencies to refuse to issue talent agency bonds to a talent agency if any of its owners or operators have been convicted of sexual offender or sexual predator crimes. The bill also requires that a criminal history check be performed prior to issuing or renewing the bond.

The bill maintains civil and criminal causes of action against talent agents for failure to comply with statutory requirements.

⁵⁴ S. 468.410, F.S.

⁵⁵ DBPR, *supra* note 16.

Interior Designers

Background

Interior designers and related business organizations are regulated by part I of ch. 481, F.S., and by the Board of Architecture and Interior Design.

Generally, ‘interior design’ means “designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements⁵⁶ of a [commercial] building or structure.”⁵⁷ Interior designers have the ability to sign, date, and seal drawings (“sign and seal”), plans, specifications, and reports filed for public record and for filings with local building departments to obtain a building permit related to interior design.⁵⁸

‘Interior decorating,’ which is differentiated from ‘interior design’ under Florida law and does not require a license, is limited to 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.

Licensure

To practice interior design, an applicant must:

- Complete the licensure application and pay a \$30 fee,⁵⁹
- Have a combination of 6 years of relevant education and experience (which must include at least 2 years of education), and
- Pass the licensure examination.

The required examination in Florida is a 3-part national examination administered by the National Council for Interior Design Qualification (NCIDQ), at a cost of \$1,325, including the application fee.⁶⁰ Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida’s licensure prerequisites.⁶¹

Interior designers must complete 20 hours of continuing education each biennium to renew their license.⁶² The biennial renewal fee for an interior designer is \$100.⁶³

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. The initial license fee for a certificate of authorization is \$75 and the biennial renewal fee is \$100.⁶⁴

Exemptions

Florida law exempts the practice of *residential* interior design from licensure requirements.⁶⁵ However, s. 481.223(1)(c), F.S., prohibits any unlicensed actor from ever using the title ‘interior designer’ or words to that effect. In 2010, this provision was found to be an unconstitutional restriction on free speech based on the exemption for residential interior design.⁶⁶ Other constitutional challenges of licensure requirements

⁵⁶ “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. S. 481.203(10), F.S.

⁵⁷ S. 481.203(8), F.S.

⁵⁸ S. 481.221, F.S.

⁵⁹ R. 61G1-17.002, F.A.C.

⁶⁰ Council for Interior Design Qualification, *Fees and Forms*, <https://www.cidq.org/fees> (last visited Dec. 19, 2019).

⁶¹ Council for Interior Design Qualification, *Eligibility Requirements*, <https://www.cidq.org/paths> (last visited Dec. 19, 2019).

⁶² R. 61G1-21.001, F.A.C.

⁶³ DBPR, *supra* note 13.

⁶⁴ R. 61G1-17.002, F.A.C.

⁶⁵ S. 481.229(6)(a), F.S.

⁶⁶ *Locke v. Shore*, 682 F.Supp.2d 1283, 1295 (N.D.Fla., 2010).

based on claims of limitations on 1st amendment free speech,⁶⁷ interstate commerce,⁶⁸ and violations of due process and equal protection, have not been successful.⁶⁹

Other unlicensed individuals are also exempted from licensure requirements, including interior decorators, employees of retail establishments providing interior decorator services⁷⁰ on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, and a manufacturer of commercial food service equipment who prepares designs, specifications, or layouts for the sale or installation of such equipment.⁷¹

Other States

Florida is one of 6 U.S. states or territories requiring interior designers to be licensed. Approximately 20 other states offer title acts, allowing only candidates meeting statutory requirements to hold themselves out as 'registered interior designers.'⁷²

For the 2018-2019 Fiscal Year, there were 2,831 licensed interior designers and 978 interior design business licenses. DBPR received 3 complaints against interior designers, and took 5 disciplinary actions. There was 1 disciplinary action against an interior design business.⁷³

Effect of the Bill

The bill changes the current licensure and regulatory scheme for certain interior designers to a voluntary registration, and clarifies that licensure is not required for certain types of interior design practices. The bill also removes licensure requirements for interior design businesses.

The bill allows interior designers who have passed the NCIDQ examination or the California Council for Interior Design Certification, or have previously held a license to practice interior design from DBPR, to qualify for a registration and a seal from DBPR. The bill removes the requirement that applicants submit proof of education and experience, which is required prior to being able to sit for the NCIDQ examination.

Only registered interior designers will be issued a seal for use in filing plans with local permitting authorities. Registered interior designers will be allowed to submit plans with their seal for interior design permits to a local permitting authority, if a local permitting authority requires such plans. The local permitting authority must accept the seal of a registered interior designer.

The bill lowers the maximum amount that the board may charge for initial and renewal fees for interior designers.

Current law which provides that an interior designer who signs and seals interior design drawings, plans, or specifications is liable for professional services performed, is not changed by the bill.

The bill removes the requirement that a registered interior designer include a registration number in advertisements for a business organization.

The bill revises requirements for disciplinary proceedings against registered interior designers. In place of suspension or revocation of a license, the bill authorizes the Board of Architecture and Interior Design to

⁶⁷ *Locke v. Shore*, 634 F.3d 1185, 1191 (11th Cir. 2011) ("Because the license requirement governs 'occupational conduct, and not a substantial amount of protected speech,' it does not implicate constitutionally protected activity under the First Amendment.").

⁶⁸ *Id.* at 1193 ("Out-of-state unlicensed interior designers may practice in commercial settings in Florida 'under the instruction, control or supervision' of a licensed architect or while 'acting as a contractor in the execution of work designed by an architect.'").

⁶⁹ *Id.* at 1196 ("Thus, the fact that, after Florida passed its license requirement, other states have considered and rejected the notion that the unlicensed practice of interior design poses safety concerns, is of no consequence.").

⁷⁰ S. 481.203(15), F.S. Services limited to the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings are not subject to regulation under applicable building codes.

⁷¹ S. 481.229(6), F.S.

⁷² International Interior Design Association, *Interior Design Laws*, <http://advocacy.iida.org/#interiordesignlaws> (last visited Dec. 19, 2019).

⁷³ DBPR, *supra* note 16.

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 that would no longer be applicable based on the change in registration requirements.

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.

The bill makes conforming changes to cross-references and terminology.

Architecture

Background

Architects and related business organizations in the state are regulated by ch. 481, pt. I, F.S., and by the Board of Architecture and Interior Design.

“Architecture services” 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.⁷⁴

To practice architecture, an applicant must:⁷⁵

- Complete the licensure application and pay a \$35 fee,⁷⁶
- Complete a bachelor’s or master’s degree from an accredited architecture program,
- Complete the national architectural experience program, which takes approximately 2 years, and
- Pass the national licensure examination given by the National Council of Architectural Registration Boards.

An architecture business corporation, limited liability company, or partnership offering architecture services to the public must obtain a certificate of authorization.⁷⁷ One or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, must be a licensed architect. Applicants for an architecture business certificate of authorization must pay an application fee of \$35. The biennial renewal fee is \$100.⁷⁸ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

For 2018-2019 Fiscal Year, there were 11,357 architects and 3,026 architecture businesses in the state. DBPR received 42 complaints against architects, and took 36 disciplinary actions.⁷⁹ DBPR received 15 complaints against architecture businesses, and took 3 disciplinary actions.

Effect of the Bill

The bill removes the requirement that architects obtain a separate business license (certificate of authorization), but continues to allow architecture firms to operate in the state. The bill provides that a licensed architect may qualify their architect business, and agree to serve as a qualifying architect for such business. The qualifying agent must ensure responsible supervisory control of all projects of the business organization.

⁷⁴ S. 481.206(6), F.S.

⁷⁵ Ss. 481.209, 481.211, and 481.213, F.S.

⁷⁶ R. 61G1-17.002, F.A.C.

⁷⁷ S. 481.219(2)-(3), F.S.

⁷⁸ Rr. 61G1-17.001, 17.002, F.A.C.

⁷⁹ DBPR, *supra* note 13.

If an architect leaves or otherwise changes their relationship with the business, he or she must inform the Board of Architecture of such within 30 days. If the departing architect was the only qualifier, the architecture business will need a replacement qualifying architect within 60 days to continue to operate.

The bill requires that an applicant for a license by endorsement must take a 2-hour board-approved course on wind mitigation under the Florida Building Code.

Professional Engineers

Background

The practice of engineering is regulated by ch. 471, F.S., and by the Florida Board of Professional Engineers (FBPE). Unlike most DBPR professions, the administrative, investigative, and prosecutorial services for FBPE are not provided by DBPR. DBPR contracts with Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.⁸⁰

In order to be licensed as a professional engineer, a person must successfully pass two examinations:⁸¹

- the fundamentals examination, and
- then, the principles and practices examination.

Prior to being permitted to sit for the fundamentals examination, an applicant is required to have graduated from an approved engineering curriculum of 4 years or more in a FBPE approved school, college, or university, and have a record of 4 years of active engineering experience.⁸²

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if they:⁸³

- have graduated from an FBPE-approved engineering program, have passed a licensing examination that is substantially equivalent to the fundamentals examination **and** principles and practice examination, and have satisfied the experience requirements; or
- hold a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

FBPE deems 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 had 20 years of continuous professional-level engineering experience.⁸⁴

FBPE also deems 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 25 years and has had 30 years of continuous professional-level engineering experience.⁸⁵

For the 2018-2019 Fiscal Year, there were 36,526 professional engineers. FBPE received 195 complaints against professional engineers, and took 92 disciplinary actions. The initial licensing fee is \$230, and the biennial renewal fee is \$98.75.⁸⁶

Effect the Bill

⁸⁰ S. 471.038(3), F.S.

⁸¹ S. 471.013, F.S.

⁸² *Id.*

⁸³ S. 471.015(3), F.S.

⁸⁴ S. 471.015(5), F.S.

⁸⁵ *Id.*

⁸⁶ Florida Engineers Management Corporation, 2019 Annual Report, 2, <https://fbpe.org/wp-content/uploads/2019/09/2018-19-FEMC-Annual-Report.pdf> (last visited Jan. 9, 2020); DBPR, *supra* note 13.

The bill reduces the number of years that a professional engineer must be licensed in another jurisdiction in order 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, they are deemed to have passed the fundamentals examination;
- 15 years, they are deemed to have passed both the fundamental examination and the principles and practices examination.

Landscape Architecture

Background

Landscape architects and related business organizations are regulated by ch. 481, pt. II, F.S., and by the Board of Landscape Architecture (BLA).

“Landscape architecture services” 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 materials.⁸⁷

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 (LAAB), or
 - 6 years of practical experience, with some credit available for education credits;⁸⁸
- pass the nationally recognized Landscape Architecture Registration Examination (LARE);⁸⁹ and
- have 1 year of practical experience, not including any experience used to qualify to take the examination.⁹⁰

For 2018-2019 Fiscal Year, there were 1,627 landscape architects. DBPR received 39 complaints against landscape architects, and did not take any disciplinary actions. The initial licensing fee is \$230, and the biennial renewal fee is \$230.⁹¹

⁸⁷ S. 481.303(7), F.S.

⁸⁸ S. 481.309(1)(b), F.S.

⁸⁹ R. 61G10-11.001, F.A.C.

⁹⁰ S. 481.310, F.S.

⁹¹ DBPR, *supra* notes 13 and 16.

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:⁹²

- have graduated from an approved program or have 6 years of 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 this state 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, such applicant does not have to complete the additional year of practical experience.⁹³

A landscape architecture corporation or partnership may offer landscape architecture services if:

- one or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect; and
- the corporation or partnership has been issued a certificate of authorization by the board.⁹⁴

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$455 and a biennial renewal fee of \$342.50.⁹⁵ Currently, there are 358 landscape architecture businesses.⁹⁶

Continuing Education

Landscape architects must complete 16 hours of continuing education every 2 years. Continuing education courses and providers must be approved by the BLA.⁹⁷

For continuing education provider approval, the BLA requires that the applicant must be professionally associated with the practice or education of landscape architecture, and that the applicant submit certain identifying information about their organization. Certain organizations, such as the American Society of Landscape Architects (ASLA), Florida Department of Transportation, and state colleges and universities in Florida, are deemed approved providers.⁹⁸

The BLA currently individually approves each continuing education course. For continuing education course approval, the BLA requires:⁹⁹

- a description of the subject or subjects to be covered;
- an outline of the course which includes the subjects, topics, and subtopics to be presented;
- a current bibliography;
- the names of each proposed instructor and alternate instructor with his or her resume;
- the total hours of instruction which will be given; and
- if the course is to be delivered by distanced learning, the means by which the course will demonstrate student involvement, and addresses comprehension of content at regular intervals.

The Landscape Architecture Continuing Education System (LACES) is a collaboration of several national landscape architecture organizations, including the ASLA and LAAB, which establishes, maintains, and enforces standards for evaluating professional development and continuing education programs for landscape architects. LACES approves and registers landscape architecture courses that cover a broad

⁹² S. 481.311(3), F.S.

⁹³ R. 61G10-11.004(2)(e), F.A.C.

⁹⁴ S. 481.319(1), F.S.

⁹⁵ R. 61G10-12.002, F.A.C.

⁹⁶ DBPR, *supra* note 13.

⁹⁷ Ss. 455.2179(1), 481.313(3),(4), F.S.

⁹⁸ R. 61G10-18.002, F.A.C.

⁹⁹ R. 61G10-18.006, F.A.C.

range of subject matter, including health, safety, and welfare.¹⁰⁰ Florida does not currently allow licensees to obtain credit through this system for courses that have not been independently approved by BLA.¹⁰¹

Effect of the Bill

The bill provides that an applicant who holds both a bachelor's degree of landscape architecture and a master's degree of landscape architecture does not have to demonstrate 1 year of practical experience in landscape architecture to qualify for licensure.

The bill provides that a person licensed in another state is also eligible for a license by endorsement in Florida if they have:

- held a valid license to practice landscape architecture in another state or territory of the United States for at least 10 years before the date of application,
- successfully completed an examination that is equivalent to or more stringent than the LARE, and
- made the application either when the applicant's license in another state or territory is active, or within 2 years of when such license was last active.

The bill also provides that an applicant who has met the requirements to be qualified for a license by endorsement except for successful completion of an examination that is equivalent to, or more stringent than the LARE examination, may take the LARE without completing additional education requirements.

The bill removes the requirement that landscape architecture businesses obtain a separate license to operate, while still continuing to allow such businesses to operate in the state. Instead, a licensed landscape architect must apply to qualify the business organization as a qualifying agent in order to engage in the practice of landscape architecture as a business organization. The qualifying agent must provide notice to DBPR within one month of any change in the information contained in the license application.

The bill allows landscape architects to receive hour-for-hour continuing education credit for attending courses that relate to and increase the basic knowledge of landscape architecture as determined by the BLA, offered through LACES, or any other nationally recognized clearinghouse for continuing education, without separate course and provider approval. The landscape architect must submit the syllabus or outline for the course, and proof of attendance of the course, to the BLA to receive credit.

Geology

Background

Geology is regulated by ch. 492, F.S., and by the Board of Professional Geologists. The practice of geology in Florida includes the performance of, or offering to perform, geological services, including, but not limited to, consultation, investigation, evaluation, planning, and geologic mapping.¹⁰²

In order for a person with a license in another state to be eligible for a license by endorsement in Florida, an applicant must:¹⁰³

- be at least 18 years of age;
- not have committed any act or offense which would constitute the basis for disciplining a Florida professional geologist;
- have graduated with a degree in geology, or other degree acceptable to the board with at least 30 semester hours or 45 quarter hours of geological coursework;
- have at least 5 years of professional geological work experience;
- have an active license in good standing in a jurisdiction of the United States;

¹⁰⁰ Landscape Architecture Continuing Education System, *About Us*, <https://laces.asla.org/AboutUs.aspx> (last visited Dec. 19, 2019).

¹⁰¹ Landscape Architecture Continuing Education System, *Find Your State Licensure Laws & Boards*, <https://www.asla.org/StateGovtAffairsLicensure.aspx> (last visited Dec. 19, 2019).

¹⁰² S. 492.102(7), F.S.

¹⁰³ S. 492.108, F.S.

- have passed an examination which has been approved by the board as substantially equivalent to or more stringent than that of Florida; and
- have successfully passed the laws and rules examination.

However, DBPR may not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of the practice act.

For the 2018-2019 Fiscal Year, there were 2,213 geologists. DBPR received 2 complaints against geologists, and did not take any disciplinary actions. The initial licensing fee is \$500, and the biennial renewal fee is \$125.¹⁰⁴

A firm, corporation, or partnership may offer geology services to the public if:

- the entity has on file the name and license number of its affiliated licensed geologists;
- the entity has been issued a certification of authorization by DBPR;
- all final geological documents prepared or approved for the use of the entity shall be dated and signed and sealed by the licensed geologist;
- the entity is not relieved of personal liability due to a licensed geologist practicing at the entity;
- the entity files an application with DBPR.¹⁰⁵

Any change in the business operating relationship between the business organization and the qualifying geologist must be reported to DBPR within 30 days.

Applicants for a geology business certificate of authorization must pay an application fee of \$350 and a biennial renewal fee of \$350.¹⁰⁶

Effect of the Bill

The bill allows a person licensed in another state to also qualify for a license by endorsement in Florida if they have:

- held a valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application,
- successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the Florida examination, and
- made the application either when the applicant's license in another state or territory is active, or within 2 years of when such license was last active.

If such applicant has met the requirements for a license by endorsement except successful completion of an examination that is equivalent to or more stringent than the examination required by the board, such applicant may take the examination required by the board.

The bill removes the requirement that geology businesses obtain a separate license to operate, while continuing to allow such organizations to continue to operate in the state. Instead, a licensed geologist must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of geology as a firm, corporation, or partnership. A qualifying agent is required to update DBPR of any changes in the relationship between himself or herself and the business organization within 30 days.

¹⁰⁴ DBPR, *supra* note 13.

¹⁰⁵ S. 481.319(1), F.S.

¹⁰⁶ R. 61G10-12.002, F.A.C.

Veterinary Medicine

Background

Veterinary medical practice is regulated by ch. 474, F.S., and by the Board of Veterinary Medicine.¹⁰⁷

A veterinarian is a health practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,¹⁰⁸ 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.¹⁰⁹

To become a licensed veterinarian, an applicant must have:

- graduated 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 obtained a certificate from the Education Commission for Foreign Veterinary Graduates;
- successfully completed the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- successfully completed an examination of the laws and rules governing the practice of veterinary medicine in Florida.¹¹⁰

For the 2018-2019 Fiscal Year, there were 11,522 veterinarians. DBPR received 447 complaints against veterinarians, and took 79 disciplinary actions. The initial licensing fee is \$100, and the biennial renewal fee is \$265.¹¹¹

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.¹¹²

A person who is licensed in another state or country is eligible for a license by endorsement in Florida if they:¹¹³

- successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida; and
- either:
 - hold 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
 - have graduated from an AVMAE or AVMARVC program and have successfully completed an examination which is equivalent to or more stringent than the NAVLE.

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.¹¹⁴

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 providing veterinary medical service at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location.¹¹⁵ Such practice must obtain a

¹⁰⁷ See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

¹⁰⁸ See s. 474.202(11), F.S.

¹⁰⁹ See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

¹¹⁰ R. 61G18-11.002, F.A.C.

¹¹¹ DBPR, *supra* notes 13 and 16.

¹¹² American Association of Veterinary State Boards, *International Pathways*, <https://www.aavsb.org/pave/> (last visited Mar. 14, 2019).

¹¹³ S. 474.217(1), F.S.

¹¹⁴ S. 474.217(2), F.S.

¹¹⁵ S. 474.202(6), F.S.

permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.¹¹⁶

The board establishes minimum standards for the operation of limited service veterinary medical practices.¹¹⁷ The board has authorized by rule such practices to perform microchipping,¹¹⁸ vaccinations, immunizations, and parasitic control.¹¹⁹

Veterinarians are prohibited from discussing a patient's medical condition with anyone except the client, except for a few exceptions, such as upon the issuance of a subpoena and for research. Section 474.2165(4), F.S., prohibits veterinary patient medical records from being furnished to any person other than the client, the client's legal representative or other veterinarians involved in the care or treatment of the patient, except in certain circumstances. This also applies to discussing the medical condition of a patient, which may include information from a microchip implant.¹²⁰

Employees, agents, or contractors of animal shelters, humane organizations, or animal control agencies operated by a humane organization or by a county, municipality, or other incorporated political subdivision, may not perform microchipping procedures on cats and dogs unless they are a veterinarian or a veterinarian is supervising the procedure.¹²¹

Effect of the Bill

The bill allows graduates of a veterinary medicine program recognized by the PAVE to be eligible for licensure as a veterinarian.

The bill codifies the current board rule allowing limited service veterinary practices to perform microchipping, vaccinations, immunizations, and parasitic control.

The bill also allows employees, agents, or contractors of animal shelters, humane organizations, or animal control agencies operated by a humane organization or by a county, municipality, or other incorporated political subdivision to perform microchipping services on cats and dogs without veterinarian supervision. The bill allows such employees, agents, or contractors of such shelters, organizations, and agencies to contact the owner of record listed on a microchip device in order to verify pet ownership.

The bill allows applicants for a license by endorsement who have been licensed in a jurisdiction of the United States for 3 years to also be eligible for licensure in Florida as long as they have completed a licensing examination that is equivalent to or more stringent than the NAVLE.

Construction Contractors

Background

Construction contractors are regulated by part I of ch. 489, F.S., and by the Construction Industry Licensing Board (CILB).

In order to become a construction contractor, an applicant must meet the following criteria:¹²²

- be of good moral character;
- be at least 18 years of age;
- successfully pass the certification examination; and

¹¹⁶ S. 474.215(7)-(8), F.S.

¹¹⁷ S. 474.215(7), F.S.

¹¹⁸ A microchip is a small, electronic chip enclosed in a glass cylinder which is injected under the skin of a pet. When a chip is scanned, it transmits the pet's identification number, which is used in the manufacturer's microchip registry to find the owner. American Veterinary Medical Association, *Microchipping of Animals FAQ*, <https://www.avma.org/microchipping-animals-faq> (last visited Dec. 19, 2019).

¹¹⁹ R. 61G18-15.007(1), F.A.C.

¹²⁰ S. 474.2165, F.S.

¹²¹ Ss. 474.202(5), 823.15, F.S.

¹²² S. 489.111(2)(c)1.-3., F.S.

- 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.

The certification examination consists of a business and finance portion, and portions specific to the license type which the applicant is seeking.¹²³

For the 2018-2019 Fiscal Year, there were 90,536 construction contractors. DBPR received 8,873 complaints against construction contractors, and took 1,323 disciplinary actions. The initial licensing fee is \$245, and the biennial renewal fee is \$205.¹²⁴

By CILB rule, when an applicant passes an examination and wishes to use those test scores for a license upgrade or a different license type, such passage is only valid for 4 years.¹²⁵

A person who is licensed in another state is eligible for a license by endorsement in Florida if the:¹²⁶

- 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.

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 exception.” The “handyman exception” was enacted in 1979 and the amount for the exception has not been increased since.¹²⁷

DBPR’s umbrella chapter, ch. 455, F.S., allows DBPR or a board thereunder to deny a license based on applicant’s license disciplinary history in any jurisdiction.¹²⁸

Effect of the Bill

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

The bill allows an applicant for a license by examination who has a 4 year building construction degree, or another degree approved by the CILB, to only pass the business and finance portion of the licensure examination.

The bill allows an applicant to also qualify for a license by endorsement if they have:

- 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, shown proof of financial health of their business organization, and submitted fingerprints, and
- made the application either when the applicant’s license in another state or territory is active, or within 2 years of when such license was last active.

General, building, residential, and roofing contractor applicants for this new avenue for a license by endorsement must take a 2-hour course on wind mitigation, flood resistance, and water intrusion requirements under the Florida Building Code. The approved course may be provided online. The board may approve other courses to satisfy this requirement, provided the necessary wind mitigation, flood resistance, and water intrusion requirements are presented.

¹²³ Ch. 61G4-16, F.A.C.

¹²⁴ DBPR, *supra* notes 13 and 16.

¹²⁵ R. 61G4-16.005, F.A.C.

¹²⁶ S. 489.115(3), F.S.

¹²⁷ S. 489.103(9), F.S.

¹²⁸ S. 455.227(1)(f), F.S.

The bill expressly states that the CILB may evaluate an applicant's prior licensure disciplinary history when making a decision to grant a license by endorsement.

The bill increases the maximum for the "handyman exception" to \$2,500, from less than \$1,000.

Electrical Contractors

Background

Electrical and alarm system contractors are regulated by part II of ch. 489, F.S., and by the Electrical Contractor Licensing Board (ECLB).

In order to become an electrical contractor or alarm system contractor, a person must submit an application to DBPR and meet the following criteria:

- be at least 18 years of age,
- be of good moral character,
- successfully pass the certification examination, and
- meet eligibility requirements according to a combination of education and experience as approved by the board.¹²⁹

For the 2018-2019 Fiscal Year, there were 14,058 electrical contractors. DBPR received 870 complaints against electrical contractors, and took 248 disciplinary actions. The initial licensing fee is \$300, and the biennial renewal fee is \$300.¹³⁰

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education each biennium to renew their license. 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.¹³¹

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 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.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida.¹³²

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.¹³³

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.¹³⁴

¹²⁹ S. 489.511(1)(a) and (b), F.S.

¹³⁰ DBPR, *supra* notes 13 and 16.

¹³¹ S. 489.517(4), F.S.

¹³² Florida Department of Business and Professional Regulation, Reciprocity and Endorsement, 6 (2018).

¹³³ S. 489.505(25), F.S.

¹³⁴ S. 489.518(1)(b), F.S.

Effect of the Bill

The bill allows an applicant to also qualify for a license by endorsement if they have:

- 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, shown proof of financial health of their business organization, and has shown proof of good moral character, and
- made either when the applicant's license in another state or territory is active, or within 2 years of when such license was last active.

Applicants for this new avenue for a license by endorsement must take a 2-hour course on the Florida Building Code.

The bill reduces the amount of continuing education required for electrical and alarm system contractors every 2 years from 14 hours to 11 hours for electrical contractors, and to 7 hours for alarm system contractors and specialty contractors. The amount of required hours devoted to technical subjects is reduced to 1 hour for alarm system contractors and specialty contractors.

The bill allows burglar alarm system agents to have 90 days to complete their required 14 hour training course after employment by an electrical or alarm system contractor.

Building Code Administrators, Inspectors, and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by part XII of ch. 468, F.S., and by the Florida Building Code Administrators and Inspectors Board (BCAIB).¹³⁵

A building code administrator, also known as a building official, supervises building code activities, including plans review, enforcement, and inspection.¹³⁶

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.¹³⁷

A one and two family dwelling inspector may inspect and determine that one and two family dwellings and accessory structures are constructed in accordance with the provisions of the building, plumbing, mechanical, accessibility, and electrical codes.¹³⁸

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. 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:

- Residential plans examiner,
- Building plans examiner,
- Plumbing plans examiner,
- Mechanical plans examiner, and

¹³⁵ S. 468.605, F.S.

¹³⁶ S. 468.603(1), F.S.

¹³⁷ S. 468.603(4), F.S.

¹³⁸ S. 468.603(4)(f), F.S.

- Electrical plans examiner.¹³⁹

In order to become licensed, building code administrators, inspectors, and plans examiners must take a licensing exam in the category in which they seek licensure.

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:¹⁴⁰

- 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 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:¹⁴¹

- have 5 years of combined relevant experience;
- have 4 years of combined postsecondary education and relevant experience;
- have 4 years of combined technical education and relevant experience;
- complete an approved cross-training program and have at least 2 years of experience;
- hold a standard certificate issued by the BCAIB 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 inspection; plans review; fire code inspections and fire plans review of new buildings as a firesafety inspector; or construction;
 or
- complete a 4 year internship certification program.

For the 2018-2019 Fiscal Year, there were 9,650 building code professionals. DBPR received 79 complaints against building code professionals, and took 6 disciplinary actions. The initial licensing fee is \$101.25, or \$5 for city or county employees, and the biennial renewal fee is \$5.¹⁴²

A provisional license may be granted to a person who is qualified to sit for the administrator, inspector, or plans examiner exam, but has not yet taken the exam. A provisional license allows a person to engage in the duties of whichever licensure category the license is granted for the duration of such license. Provisional licenses are valid for 1 year, and may be renewed by the BCAIB **only** for just cause for up to 2 more years. However, an applicant who is completing an internship program for a plans examiner license may apply to the BCAIB for a provisional certificate that is valid for the duration of the internship program.¹⁴³

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:¹⁴⁴

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

¹³⁹ S. 468.603(7), F.S.

¹⁴⁰ S. 468.609(3), F.S.

¹⁴¹ S. 468.609(2), F.S.

¹⁴² DBPR, *supra* notes 13 and 16.

¹⁴³ S. 468.609, F.S.

¹⁴⁴ S. 468.613, F.S.; R. 61G19-6.0035(4), F.A.C.

Effect of the Bill

The bill renames a “one and two family dwelling inspector” to “residential inspectors” and expands the scope to include inspecting one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story, and accessory use structures in connection therewith, for compliance with the building, plumbing, mechanical, accessibility, and electrical codes.

The bill reduces the amount of experience and education required for certain pathways to become a building code inspector or plans examiner. The requirements are reduced to:

- 4 years from 5 years for combined relevant experience,
- 3 years from 4 years for combined post-secondary education and relevant experience, and
- 3 years from 4 years for combined technical education and relevant experience.

The bill provides that a person licensed in another state is also eligible for a license by endorsement in Florida if they:

- are at least 18 years of age;
- are of good moral character;
- hold 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,
- successfully completed an applicable examination administered by the ICC, and
- made the application either when the applicant’s license in another state or territory is active, or within 2 years of when such license was last active.

The bill extends the period of time for which a provisional license is initially valid, from 1 year to 2 years.

Home Inspectors

Background

Home inspectors are regulated by part XV of ch. 468, F.S., and by the Home Inspection Services Licensing Program.

In order to obtain licensure as a home inspector, a person must:

- have good moral character;
- carry required liability insurance;
- complete a course study of at least 120 hours; and
- pass the required examination.¹⁴⁵

For the 2018-2019 Fiscal Year, there were 7,576 home inspectors. DBPR received 141 complaints against construction contractors, and took 4 disciplinary actions. The initial licensing fee is \$230, and the biennial renewal fee is \$105.¹⁴⁶

A person who is licensed in another state is eligible for a license by endorsement in Florida who:¹⁴⁷

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

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.¹⁴⁸

¹⁴⁵ S. 468.8313, F.S.

¹⁴⁶ DBPR, *supra* notes 13 and 16.

¹⁴⁷ S. 468.8414(3), F.S.

¹⁴⁸ S. 468.8314(3), F.S.

Effect of the Bill

The bill allows an applicant to also qualify for a license by endorsement if they have:

- a liability insurance policy as required for other licensees,
- held 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, and
- made the application either when the applicant's license in another state or territory is active, or within 2 years of when such license was last active.

Certified Public Accountants

Background

The Board of Accountancy within DBPR is charged with regulating the practice of public accountancy in Florida. To be licensed as a certified public accountant, a person must:¹⁴⁹

- 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.

For the 2018-2019 Fiscal Year, there were 41,320 certified public accountants. DBPR received 456 complaints against certified public accountants, and took 93 disciplinary actions. The initial licensing fee is \$50, and the biennial renewal fee is \$95.¹⁵⁰

An applicant is eligible for a license by endorsement who:¹⁵¹

- is of good moral character;
- has completed 80 hours of CE, if it has been at least 2 years since passing the licensing examination;¹⁵² and
- either:
 - is not licensed, but has otherwise met the licensing requirements and has passed a licensing examination that is substantially equivalent to the Florida examination; or
 - 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 are substantially equivalent to a Florida license or is otherwise permitted.

Effect of the Bill

The bill removes the requirement that applicants for a license by endorsement who passed a licensing exam more than 2 years prior to the date of application must complete 80 hours of continuing education hours before they are eligible for such license.

Florida Building Commission

Background

In 2000, the Legislature authorized implementation of the first statewide Florida Building Code (Code), which replaced all local building codes.¹⁵³ In 2004, the state adopted the International Code Council's I-Codes as the base of the Code to create standards used in design, building, and compliance processes to "construct safe, sustainable, affordable, and resilient structures."¹⁵⁴

¹⁴⁹ S. 473.308(2)-(5), F.S.

¹⁵⁰ DBPR, *supra* notes 13 and 16.

¹⁵¹ S. 468.8414(3), (4), F.S.

¹⁵² R. 61H1-29.003, F.A.C.

¹⁵³ *Id.* & DBPR, *Overview of the Florida Building Code*, <https://www.floridahousing.org/.../aboutflorida/.../overview-of-the-florida-building-commission-and-standard.pptx> (last visited on Oct. 18, 2017).

¹⁵⁴ International Code Council, *About the ICC*, <http://www.iccsafe.org/about-icc/overview/about-international-code-council/> (last visited on Oct. 18, 2017) & International Code Council, *ICC Code Development Process*, <https://cdn-web.iccsafe.org/wp-content/uploads/ICC-Code-Development-Process.pdf> (last visited on Oct. 18, 2017).

The Florida Building Commission (Commission) was created to implement the Code. The Commission, which is housed within 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:

- 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 code 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);
- 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.¹⁵⁵

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.¹⁵⁶ 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.¹⁵⁷

Effect of the Bill

The bill reduces the number of members on the Commission from 27 to 19. The membership under the bill is as follows:

- One licensed architect 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;

¹⁵⁵ S. 553.74, F.S.

¹⁵⁶ DBPR, *Florida Building Code Online*, https://www.floridabuilding.org/c/c_commission.aspx (last visited on Oct. 18, 2017).

¹⁵⁷ DBPR, *Florida Building Code Standards*, http://www.myfloridalicense.com/dbpr/bcs/program_committees.html (last visited on Oct. 18, 2017), & Rule 61G20-2.001 F.A.C.

- One structural engineer;
- One air-conditioning contractor, mechanical contractor, or mechanical engineer;
- One electrical contractor or electrical engineer;
- One certified general contractor or one certified building contractor. 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;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One certified residential contractor;
- Three members who are municipal, county, or district code enforcement officials, one of whom is also a fire marshal;
- 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 which complies with or is certified to be compliant with the requirements of the Americans with Disability Act of 1990, as amended.;
- One member of the manufactured buildings industry;
- 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 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); and
- One member who is a representative of a natural gas distribution system.

The bill removes the following members from the Commission:

- One member from fire protection engineering or technology;
- One member who represents the Department of Financial Services;
- One member who is a county code enforcement official;
- One member who is a representative of a municipality or a 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.

This section becomes effective January 1, 2021.

Employee Leasing Companies

Background

Employee Leasing Companies are regulated by part XI of ch. 468, F.S., and the Board of Employee Leasing Companies. Generally, 'employee leasing' means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.¹⁵⁸

Currently, if an applicant is denied a license, or a licensee had their license revoked, they are ineligible to reapply for a license for a period of 1 year following final agency action. This time restriction does not apply to administrative denials or revocations entered because:¹⁵⁹

- the applicant or licensee has made an inadvertent error or omission on the application;
- the experience documented to the board was insufficient at the time of the previous application; or

¹⁵⁸ S. 468.522, F.S.

¹⁵⁹ S. 468.524(4), F.S.

- DBPR is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency.

Effect of the Bill

The bill removes the 1 year time restriction for reapplication for initial applicants who were denied a license, but retains the time restriction for licensees who had their license revoked.

Pugilistic Timekeepers and Announcers

Background

Chapter 548, F.S., governs the Florida State Boxing Commission (FSBC) under DBPR. The function of the FSBC is to license and regulate pugilistic events, including professional boxing, kickboxing, and mixed martial arts. The FSBC ensures that all matches are conducted in accordance with provisions of state laws and rules. The FSBC designates employees to attend the matches, appoints match officials, and ensures the matches are held in a safe and fair manner.

A 'timekeeper' is an individual who is assigned the duties to maintain the time for each round during a pugilistic event.¹⁶⁰

An 'announcer' is an individual who has the authority to make all announcements, including the result of the event, during a pugilistic event.¹⁶¹

¹⁶⁰ R. 61K1-3.0001(19), F.A.C.

¹⁶¹ R. 61K1-3.0001(1), F.A.C.

In order to obtain a license, a timekeeper or announcer applicant must:¹⁶²

- complete an application in a form prescribed by the FSBC,
- be at least 18 years of age, and
- pay an application fee of \$50.

Currently, there are 10 licensed timekeepers and 17 licensed announcers. According to DBPR, there were no disciplinary orders against timekeepers or announcers in the 2018-2019 Fiscal Year.¹⁶³

Effect of the Bill

The bill removes all licensure and regulatory requirements for boxing announcers and timekeepers.¹⁶⁴

Yacht and Ship Broker Branch Offices

Background

Yacht and ship brokers, salespersons, and related business organizations are regulated by ch. 326, F.S., and by the Yacht and Ship Broker's Section of DBPR.

Each yacht and ship broker must maintain a principle 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 initial branch office license fee and the biennial renewal fee are both \$100.¹⁶⁵ There are no requirements of the branch office other than to obtain licensure and there are no inspection requirements. Currently, there are 73 yacht broker branch offices. According to DBPR, there were no disciplinary orders against branch offices in the 2018-2019 Fiscal Year.¹⁶⁶

Effect of the Bill

The bill removes the requirement for yacht and ship brokers to obtain a separate branch office license for each branch office. The bill does not remove the requirement for a broker to be licensed or to maintain a principle place of business in Florida.

Labor Organizations

Background

Labor organizations and related business agents are regulated by part I of ch. 447, F.S., and by the Labor Organizations Program at DBPR.¹⁶⁷

A labor organization is defined as “[a]ny 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.”¹⁶⁸ In Florida, all labor organizations are required to register with DBPR and all business agents of labor organizations must obtain a license.

The National Labor Relations Board (NLRB) is an independent federal entity which provides the same type of union oversight as DBPR and is active in Florida, maintaining offices in Tampa and Miami. The United

¹⁶² S. 548.021, F.S.

¹⁶³ DBPR, *supra* note 13.

¹⁶⁴ The bill also makes conforming changes to cross-references.

¹⁶⁵ R. 61B-60.002, F.A.C.

¹⁶⁶ DBPR, *supra* note 16.

¹⁶⁷ This does not include certain public employee organizations, which are regulated by the Public Employees Relations Commission, an independent, quasi-judicial agency described in pt. II of ch. 447, F.S.

¹⁶⁸ S. 447.02(1), F.S.

States Department of Labor, Office of Labor Management Standards also registers unions at the federal level.¹⁶⁹

Business agents are defined as “[a]ny 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;
- Soliciting or receiving from any employer any right or privilege for employees.”¹⁷⁰

Applicants for a business agent license pay a \$25 fee for licensure. Labor organization applicants must pay an annual fee of \$1.

Currently, there are 319 licensed labor organizations and 465 associated business agents. According to DBPR, there were no disciplinary orders against labor organizations or business agents in the 2018-2019 Fiscal Year.¹⁷¹

Effect of the Bill

The bill repeals the licensing requirements and provisions related to licensure of labor organizations and business agents.

Student Loan Defaults and Disciplinary Action

Background

Many states allow a licensing agency to discipline a licensee when they default on student loans or scholarship obligations.¹⁷² In Florida, the only agency that has express authority to discipline a licensee for such action is the Florida Department of Health (DOH). DOH brought 722 such disciplinary actions against health practitioners in the 2018-2019 Fiscal Year.¹⁷³ Neither DBPR nor a board thereunder has ever disciplined a licensee for defaulting on a student loan.¹⁷⁴

Proponents of such disciplinary licensing laws argue that:

- The threat of losing a professional license is powerful tool to ensure borrowers stay current on their student loans, and as a result, these laws reduce the number borrowers who default; and
- It is in the taxpayers’ interest to ensure borrowers are repaying their government-backed student loans because the state or federal government foots the bill if borrowers default.¹⁷⁵

Opponents of such disciplinary licensing laws argue that states are using their licensing authority as a punitive debt collection tool, and that the purpose of licensing laws is to protect the health and safety of the public, not to operate as defacto debt collectors.¹⁷⁶ Opponents also argue that “if people are unable to work

¹⁶⁹ National Labor Relations Board, *What We Do*, <https://www.nlr.gov/about-nlr/what-we-do> (March 16, 2019); United States Department of Labor, Office of Labor Management Standards, *Reports Required Under the LMRDA and the CSRA*, <https://www.dol.gov/olms/regs/compliance/rrlo/repreg.htm> (March 16, 2019); DBPR, *supra* note 16.

¹⁷⁰ S. 447.02(2), F.S.

¹⁷¹ DBPR, *supra* notes 13 and 16.

¹⁷² Andrew Wagner, *License Suspension for Student Loan Defaulters*, National Conference of State Legislatures Legisbrief, Oct. 1, 2018, <http://www.ncsl.org/research/labor-and-employment/license-suspension-for-student-loan-defaulters.aspx> (last visited Mar. 19, 2019).

¹⁷³ Email from Gary Landry, Office of Legislative Planning, Department of Health, Student Loan information as promised (Oct. 30, 2019).

¹⁷⁴ Email from Colton Madill, Office of Legislative Affairs, Department of Business and Professional Regulation, RE: HB 115 (Oct. 30, 2019).

¹⁷⁵ Jessica Silver-Greenberg, Stacey Cowley, & Natalie Kitroeff, *When Unpaid Student Loan Bills Mean You Can No Longer Work*, The New York Times (Nov. 18, 2017) https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html?_r=0 (last visited on Nov. 26, 2019).

¹⁷⁶ *Id.*

in their chosen field – the one they went to school for and presumably took out loans to fund – how can they be expected to pay their debt?”¹⁷⁷

Over the past few years, there have been bills filed in Congress that would prevent all states from taking such disciplinary measures, but so far they have been unsuccessful.¹⁷⁸

Effect of the Bill

The bill specifically prohibits DBPR or any board under DBPR from disciplining a licensee solely for defaulting or becoming delinquent on a federal or state guaranteed student loan or a scholarship obligation.

The bill related to health care practitioners:

- Removes the specific provision allowing DOH to discipline a health care practitioner for failing to comply with a scholarship obligation and the associated mandatory disciplinary action;
- Repeals the requirement that DOH must issue an emergency order suspending a health care practitioner’s license for a student loan default absent timely proof of a new repayment plan; and
- Repeals the requirement that DOH must obtain a monthly list from the USHHS of the Florida health care practitioners who have defaulted on their student loans;

Dietetics and Nutrition

Background

Dietitians and nutritionists are regulated by ch. 468, Part X, F.S., and by the Council of Dietetics and Nutrition, which is under the delegated authority of the Board of Medicine, at DOH.¹⁷⁹

The practice of dietetics and nutrition includes:¹⁸⁰

- assessing nutritional needs and status using appropriate data;
- recommending appropriate dietary regimens, nutrition support, and nutrient intake;
- ordering therapeutic diets;
- improving health status through nutrition, research, counseling, and education; and
- developing, implementing, and managing nutrition care systems, including evaluating, monitoring, and maintaining appropriate standards of high quality food and nutrition services.

Nutrition counseling includes advising and assessing individuals or groups on appropriate nutritional intake by integrating information from a nutrition assessment.¹⁸¹ A nutrition assessment is an evaluation of nutritional needs using appropriate data to determine nutrient needs or status and making appropriate nutrition recommendations.¹⁸²

An individual must be licensed to practice dietetics and nutrition or provide nutrition counseling for remuneration, or to hold oneself out as a practitioner of dietetics and nutrition practice or nutrition counseling.¹⁸³ To qualify for licensure, an applicant must:¹⁸⁴

- possess a baccalaureate or post-baccalaureate degree in human nutrition, food and nutrition, dietetics, or food management, or an equivalent course of study, from an accredited school or program;

¹⁷⁷ Courtney Nagle, *Student Loan Debt Could Affect Your Job in 13 States*, U.S. News, <https://www.usnews.com/education/blogs/student-loan-ranger/articles/2019-04-10/these-states-could-revoke-your-professional-license-over-student-loan-debt> (last visited Jan. 10, 2020).

¹⁷⁸ Wagner, *supra* note 178.

¹⁷⁹ S. 468.506, F.S.

¹⁸⁰ S. 468.503(5), F.S.

¹⁸¹ S. 468.503(10), F.S.

¹⁸² S. 468.503(9), F.S.

¹⁸³ S. 468.504, F.S.

¹⁸⁴ S. 468.509, F.S. An individual may be licensed without examination if the individual demonstrates that he or she is a registered dietitian or nutritionist with the Commission on Dietetic Registration or is a certified as nutrition specialist by the Certification Board of Nutrition Specialist or is a diplomat of the American Clinical Board of Nutrition.

- complete preprofessional experience of at least 900 hours or has education or experience determined to be equivalent by the Board of Medicine; and
- pass a licensure examination.

However, there are a number of exceptions to these licensure requirements. Licensure is not required for a person:¹⁸⁵

- Licensed in this state as a certain health practitioner, as long as such person is engaging in the practice of the profession for which he or she is licensed.
- Employed by the federal government, if such person engages in dietetics solely under the direction or control of the organization by which the person is employed.
- Employed as a cooperative extension home economist.
- Pursuing a course of study leading to a degree in dietetics and nutrition from an accredited school, if the activities and services are a part of a supervised course of study and the person's title clearly indicates that he or she is a student or trainee.
- Fulfilling the required preprofessional experience required for licensure.
- Registered or licensed in another state practicing dietetics or nutrition incidental to a course of study when taking or giving a postgraduate course or other course of study in this state, if the person holds an appointment on the faculty of an accredited school.
- Markets or distributing food, food materials, or dietary supplements, or engaging in the explanation of the use and benefits of those products or the preparation of those products, if the person does not engage for a fee in dietetics and nutrition practice or nutrition counseling.
- Marketing or distributing food, food materials, or dietary supplements, or engaging in the explanation of the use or preparation of such products, as an employee of a permitted pharmacy.
- Employed as an educator by a nonprofit organization approved by the council, a governmental entity, an elementary or secondary school, an accredited institution of higher education, if his or her activities are part of such employment.
- Providing weight control services or related weight control products, provided that the program has been reviewed by, consultation is available from, and no program change can be made without approval by a licensed dietitian/nutritionist.
- Employed by a licensed hospital, nursing home, continuing care facility, or assisted living facility, if the person is employed in compliance with governing facility licensure laws and rules regarding the operation of its dietetic department.
- Employed by a nursing facility exempt from licensure.
- Exempt from licensure under ch. 464, F.S.
- Employed as a dietetic technician.
- Disseminating information, conducting a class or seminar, or giving a speech related to nutrition, if such information, class, seminar or speech is provided without a fee.

Individuals who provide dietary or nutrition information for compensation as a part of a profession that is not regulated, such as a fitness trainer or a life coach, are subject to prosecution for the unlicensed practice of a regulated health profession.¹⁸⁶

Applicants for a dietetics and nutrition license must pay an initial examination fee of \$200, an application fee of \$80, an initial license fee of \$80, and an unlicensed activity fee of \$5.¹⁸⁷ The biennial renewal fee is \$75.¹⁸⁸

¹⁸⁵ S. 468.505, F.S.

¹⁸⁶ An individual prosecuted for the unlicensed practice of a regulated health care profession may be subject to both administrative and criminal sanctions if found guilty.

¹⁸⁷ Florida Department of Health, *Licensing*, <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/licensing/index.html> (last visited Dec. 19, 2019).

¹⁸⁸ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2018-2019*, 46, http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1819.pdf (last visited on Dec. 19, 2019).

Currently, 7 states do not register or license dietitians: Arizona, California, Colorado, Michigan, New Jersey, Texas, and Virginia.¹⁸⁹ California, Texas, and Virginia provide title protection for dietitians.¹⁹⁰ Title protection limits the use of certain titles, such as “dietitian” or “nutritionist” to individuals meeting certain criteria, such as holding a national certification or having met the requirements for licensure.¹⁹¹

In the 2018-2019 Fiscal Year, there were 5,413 licensed dietitians and nutritionists. DOH received 8 complaints against dietitians and nutritionists, but no complaints were found legally sufficient by the board to take disciplinary action.¹⁹²

Effect of the Bill

The bill authorizes an unlicensed individual to provide compensated dietary and nutritional information as long as the individual does not represent or imply that they are a dietitian, licensed dietitian, registered dietitian, licensed nutritionist, licensed nutrition counselor, or use any other term or symbol that implies they are a dietitian, nutritionist, or nutrition counselor.

Commercial Driver Licenses

Background

The Department of Highway Safety and Motor Vehicles (DHSMV) issues operators licenses and commercial driver licenses (CDL).¹⁹³

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,
- A vehicle that transports hazardous materials with a federal placard,
- A tank vehicle transporting hazardous materials, and
- A motorcycle.

In order to obtain a CDL, an applicant is required to have an Operator’s License (non-commercial driver license), pass the vision requirements, and pass knowledge and skills tests. An applicant must be at least 18 years of age. If they are under 21, they will be restricted to intrastate operation only.¹⁹⁴

Florida law requires every applicant for an original driver license to pass an examination. However, the Department of Highway Safety and Motor Vehicles (DHSMV) may waive the knowledge, endorsement, and skills tests requirements for an applicant who is otherwise qualified and who surrenders a valid driver license issued by another state, a Canadian province, or the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.¹⁹⁵

Under Federal Motor Carrier Safety Administration rules, states may waive knowledge and skill test requirements for CDLs for military veterans for current and former military service members who have experience driving a commercial motor vehicle in the military for an equivalent state license. The

¹⁸⁹ Commission on Dietetic Registration, Academy of Nutrition and Dietetics, *Laws that Regulate Dietitians/Nutritionists*, available at <https://www.cdrnet.org/vault/2459/web/files/Licensurelawsregulations.pdf> (last visited Dec.19, 2019).

¹⁹⁰ *Id.*

¹⁹¹ Academy of Nutrition and Dietetics, *Licensure and Professional Regulation of Dietitians*, available at <http://www.eatrightpro.org/resource/advocacy/legislation/all-legislation/licensure> (last visited Dec.19, 2019).

¹⁹² Florida Department of Health, *supra* note 162 at 14, 29.

¹⁹³ Department of Highway Safety and Motor Vehicles, *Department Overview*, <https://www.flhsmv.gov/about/department-overview/> (last visited Feb. 21, 2020).

¹⁹⁴ Department of Highway Safety and Motor Vehicles, *Commercial Driver License*, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/commercial-driver-license/> (last visited Feb. 21, 2020).

¹⁹⁵ Section 322.12(1), F.S.

application must be made within one year of discharge of military service and certain conditions must be met.¹⁹⁶

Under DHSMV's rules, applicants seeking a waiver of CDL skill testing due to military experience must pass all written knowledge exams for the CDL class and any applicable endorsements, and apply for a waiver while on active duty or within 90 days of separation from military service. Additionally, applicants must certify that for at least two years immediately preceding the application they operated a motor vehicle in the appropriate class, and present a Certificate for Waiver of Skill Test for Military Personnel form signed by his or her commanding officer.¹⁹⁷

Effect of the Bill

The bill allows DHSMV to waive the requirement to pass the examination for a CDL for a military service member or veteran with specified training, including having at least two years of military experience in driving vehicles that would otherwise require a CDL to operate.

To qualify for the waiver, the person must be honorably discharged from military service within one year of the application for the waiver. The person must complete every other requirement for a commercial driver's license within one year of receiving a waiver.

Food Trucks

DBPR Regulation

The Division of Hotels and Restaurants within DBPR is charged with enforcing the applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

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.

Food Trucks¹⁹⁸ are regulated by DBPR as "mobile food dispensing vehicles,"¹⁹⁹ defined in rule as any vehicle mounted public food service establishments which are self-propelled or otherwise movable from place to place and include self-contained utilities, such as gas, water, electricity and liquid waste disposal.²⁰⁰ To obtain a license as a as a mobile food dispensing vehicle, an applicant must:

- complete kitchen plan review (if required),
- apply for a license and pay the license fee, and
- schedule and pass the licensing inspection.

There are several exclusions from the definition of public food service establishment, including:

- 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;

¹⁹⁶ 49 C.F.R. 383.77

¹⁹⁷ Rule 15A-7.018, F.A.C.

¹⁹⁸ Generally, a food truck is a large wheeled vehicle from which food is sold that typically contains cooking facilities where the food is prepared. Merriam-Webster Dictionary, *Food Truck*, <https://www.merriam-webster.com/dictionary/food%20truck> (last visited Feb. 21, 2020).

¹⁹⁹ S. 509.101, F.S.

²⁰⁰ R. 61C-1.002, F.A.C.

- 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;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and
- Any research and development test kitchen limited to use by employees and not open to the general public.

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.²⁰¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.²⁰²

Likewise, municipalities²⁰³ have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform functions, provide services, and exercise any power for municipal purposes, except as otherwise provided by law.²⁰⁴

Local Business Tax

The local business tax, authorized in ch. 205, F.S., represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction.²⁰⁵ Counties and municipalities may levy a business tax.²⁰⁶

Revenue Sources Based on Home Rule Authority

Pursuant to home rule authority, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. A regulatory fee should not exceed the regulated activity's cost and is generally required to be applied solely to the regulated activity's cost for which the fee is imposed.²⁰⁷

Local Business Regulation

General law determines whether local governments are able to regulate businesses, and to what degree.²⁰⁸ If state law preempts regulation for a business, then, generally, local governments may not regulate it.²⁰⁹ For example, Florida law currently preempts local regulation with regard to the following:

- assessing local fees associated with providing proof of licensure as a contractor, or providing, recording, or filing evidence of worker's compensation insurance coverage by a contractor;²¹⁰
- assessing local fees and rules regarding low-voltage alarm system projects;²¹¹
- tobacco and nicotine products;²¹²
- firearms, weapons, and ammunition;²¹³

²⁰¹ Art. VIII, s. 1(f), Fla. Const.

²⁰² Art. VIII, s. 1(g), Fla. Const.

²⁰³ A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term "municipality" may be used interchangeably with the terms "town," "city," and "village."

²⁰⁴ Art. VIII, s. 2(b), Fla. Const. See also s. 166.021(1), F.S.

²⁰⁵ S. 205.022(5), F.S.

²⁰⁶ Ss. 205.033 and 205.043, F.S.

²⁰⁷ EDR, *supra* note 12, at 9.

²⁰⁸ Art. VIII, s. 1(f), Fla. Const.; Art. VII, s. 9(a), Fla. Const.; Art. VIII, s. 2(b), Fla. Const.; s. 166.021(1), F.S.

²⁰⁹ *Id.*; Wolf and Bolinger, *supra* note 17.

²¹⁰ S. 553.80(7)(d), F.S.

²¹¹ S. 489.503(14), F.S.

²¹² Ch. 569, F.S., and s. 386.209, F.S.

²¹³ S. 790.33(1), F.S.

- employment benefits;²¹⁴
- polystyrene products;²¹⁵
- public lodging establishments and public food service establishments;²¹⁶ and
- disposable plastic bags.²¹⁷

Conversely, Florida law also specifically grants local jurisdictions the right to regulate businesses in certain circumstances.²¹⁸ For example, Florida law specifically authorizes regulations relating to:

- zoning and land use;²¹⁹
- the levy of “reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter”;²²⁰
- the levy of local business taxes;²²¹
- building code inspection fees;²²²
- tattoo establishments;²²³
- massage practices;²²⁴
- child care facilities;²²⁵
- taxis and other vehicles for hire;²²⁶ and
- waste and sewage collection.²²⁷

Effect of the Bill

The bill preempts the regulation of mobile food dispensing vehicles (food trucks) to the state.

The bill defines "mobile food dispensing vehicle" to mean any vehicle-mounted public food service establishment which is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, and liquid waste disposal.

The bill provides that a municipality, county, or other local government entity may not:

- require a separate license, registration, or permit beyond those established by DBPR as a condition for the mobile food dispensing vehicle's operation within the jurisdiction;
- require a separate fee beyond those established by DBPR as a condition for the mobile food dispensing vehicle's operation within the jurisdiction; or
- prohibit mobile food dispensing vehicles from operating within the jurisdiction.

The bill provides that a municipality, county, or other local government may require:

- a mobile food dispensing vehicle operator to comply with local zoning requirements.
- a one-time vendor fee associated with a special event that the municipality, county, or local government is coordinating.

Except where indicated otherwise, the bill has an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Provides “Occupational Freedom and Opportunity Act” as the act title;

²¹⁴ S. 218.077, F.S.

²¹⁵ S. 500.90, F.S.

²¹⁶ S. 509.032, F.S.

²¹⁷ S. 403.7033, F.S.

²¹⁸ *Supra* note 16.

²¹⁹ S. 125.01(1)(h), F.S.

²²⁰ S. 166.221, F.S.

²²¹ Ch. 205, F.S.

²²² S. 166.222, F.S.

²²³ S. 381.00791, F.S.

²²⁴ S. 480.052, F.S.

²²⁵ S. 402.306, F.S.

²²⁶ S. 125.01(1)(n), F.S.

²²⁷ S. 125.01(1)(k), F.S.

- Section 2** Amends s. 287.055, F.S., conforming provisions;
- Section 3** Amends s. 322.57, F.S., related to commercial driver licenses for military veterans;
- Section 4** Amends s. 326.004, F.S., deleting requirement for yacht broker branch office licenses;
- Section 5** Amends s. 447.02, F.S., conforming provisions;
- Section 6** Repeals s. 447.04, F.S., relating to licensure requirements for business agents;
- Section 7** Repeals s. 447.041, F.S., relating to hearings for labor organizations or business agents denied licensure;
- Section 8** Repeals s. 447.045, F.S., relating to confidential application information;
- Section 9** Repeals s. 447.06, F.S., relating to required registration of labor organizations;
- Section 10** Amends s. 447.09, F.S., deleting certain actions relating to right of franchise of a member of a labor organization;
- Section 11** Repeals s. 447.12, F.S., relating to fees;
- Section 12** Repeals s. 447.16, F.S., relating to applicability;
- Section 13** Amends s. 447.305, F.S., deleting provision requiring notification to DBPR;
- Section 14** Amends s. 455.213, F.S., requiring DBPR and boards to enter into reciprocity agreements, when available, and to post certain information on their website;
- Section 15** Creates s. 455.2278, F.S., to prohibit DBPR from certain disciplinary actions;
- Section 16** Amends s. 456.072, F.S., relating to disciplinary actions for health practitioners;
- Section 17** Repeals s. 456.0721, F.S., relating to required reports for student loan defaults;
- Section 18** Amends s. 456.074, F.S., relating to emergency suspension of health practitioners;
- Section 19** Amends s. 468.401, F.S., removing definitions;
- Section 20** Repeals s. 468.402, F.S., relating to duties and authority of DBPR for talent agencies;
- Section 21** Repeals s. 468.403, F.S., relating to duties and authority of DBPR for talent agencies;
- Section 22** Repeals s. 468.404, F.S., relating to duties and authority of DBPR for talent agencies;
- Section 23** Repeals s. 468.405, F.S., relating to duties and authority of DBPR for talent agencies;
- Section 24** Amends s. 468.406, F.S., revising requirements for a schedule of fees and charges;
- Section 25** Repeals s. 468.407, F.S., relating to license posting requirements;
- Section 26** Amends s. 468.408, F.S., conforming provisions;
- Section 27** Amends s. 468.409, F.S., removing a records inspection requirement;
- Section 28** Amends s. 468.410, F.S., deleting a contract requirement;
- Section 29** Amends s. 468.412, F.S., deleting recordkeeping and posting requirements;
- Section 30** Amends s. 468.413, F.S., revising criminal penalties for talent agencies;
- Section 31** Repeals s. 468.414, F.S., relating to the Professional Regulation Trust Fund;
- Section 32** Amends s. 468.415, F.S., revising penalties;
- Section 33** Amends s. 468.505, F.S., relating to unlicensed individuals practicing dietetics and nutrition counseling;
- Section 34** Amends s. 468.524, F.S., revising time limitations for reapplication as a licensed employee leasing company;
- Section 35** Amends s. 468.603, F.S., revising a definition;
- Section 36** Amends s. 468.609, F.S., revising education and experience requirements;
- Section 37** Amends s. 468.613, F.S., revising requirements for a license by endorsement;
- Section 38** Amends s. 468.8314, F.S., revising requirements for a license by endorsement;
- Section 39** Amends s. 471.015, F.S., revising requirements for a license by endorsement;
- Section 40** Amends s. 473.308, F.S., revising requirements for a license by endorsement;
- Section 41** Amends s. 474.202, F.S., revising the definition for 'limited-service veterinary medical practice';
- Section 42** Amends s. 474.203, F.S., allowing microchipping to be performed without a veterinary license or supervision, under certain circumstances;
- Section 43** Amends s. 474.207, F.S., adding an approved licensing examination;
- Section 44** Amends s. 474.217, F.S., revising requirements for a license by endorsement;
- Section 45** Amends s. 476.114, F.S., revising barber training requirements;
- Section 46** Amends s. 476.144, F.S., revising restricted barbers training requirements;
- Section 47** Amends s. 477.013, F.S., revising and providing definitions;
- Section 48** Repeals s. 477.0132, F.S., relating to the registration of hair braiding, hair wrapping, and body wrapping;
- Section 49** Amends s. 477.0135, F.S., exempting hair braiders, hair wrappers, body wrappers, nail polishers, and makeup applicators from licensure;

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|-------------------|---|
| Section 50 | Amends s. 477.019, F.S., conforming provisions; |
| Section 51 | Amends s. 477.0201, F.S., providing requirements for specialty licenses; |
| Section 52 | Amends s. 477.026, F.S., conforming provisions; |
| Section 53 | Amends s. 477.0263, F.S., adding exceptions to services that must be performed in a licensed salon; |
| Section 54 | Amends s. 477.0265, F.S., conforming provisions; |
| Section 55 | Amends s. 477.029, F.S., conforming provisions; |
| Section 56 | Amends s. 481.201, F.S., removing legislative findings related to interior design; |
| Section 57 | Amends s. 481.203, F.S., revising definitions for 'certificate of authorization' and 'business organization'; |
| Section 58 | Amends s. 481.205, F.S., revising provisions for the Board of Architecture; |
| Section 59 | Amends s. 481.207, F.S., conforming provisions; |
| Section 60 | Amends s. 481.209, F.S., conforming provisions; |
| Section 61 | Amends s. 481.213, F.S., conforming provisions; |
| Section 62 | Amends s. 481.2131, F.S., revising regulations for practicing interior design; |
| Section 63 | Amends s. 481.215, F.S., conforming provisions; |
| Section 64 | Amends s. 481.217, F.S., conforming provisions; |
| Section 65 | Amends s. 481.219, F.S., removing regulations for interior design businesses; |
| Section 66 | Amends s. 481.221, F.S., conforming provisions; |
| Section 67 | Amends s. 481.223, F.S., conforming provisions; |
| Section 68 | Amends s. 481.2251, F.S., conforming provisions; |
| Section 69 | Amends s. 481.229, F.S., conforming provisions; |
| Section 70 | Amends s. 481.231, F.S., conforming provisions; |
| Section 71 | Amends s. 481.303, F.S., deleting the definition of 'certificate of authorization'; |
| Section 72 | Amends s. 481.310, F.S., revising training requirements; |
| Section 73 | Amends s. 481.311, F.S., conforming provisions; |
| Section 74 | Amends s. 481.313, F.S., revising continuing education requirements; |
| Section 75 | Amends s. 481.317, F.S., conforming provisions; |
| Section 76 | Amends s. 481.319, F.S., deleting the requirement for a certificate of authorization and authorizing practice through a corporation or partnership; |
| Section 77 | Amends s. 481.321, F.S., revising requirements for the display of a certificate number; |
| Section 78 | Amends s. 481.329, F.S., conforming a cross-reference; |
| Section 79 | Amends s. 489.103, F.S., revising contract limits for unlicensed contractors in certain situations; |
| Section 80 | Amends s. 489.111, F.S., revising timing for taking a license exam; conforming a provision; |
| Section 81 | Amends s. 489.113, F.S., allowing certain contracting applicants to be exempt from taking a licensing examination; |
| Section 82 | Amends s. 489.115, F.S., revising requirements for a license by endorsement; |
| Section 83 | Amends s. 489.511, F.S., revising requirements for a license by endorsement; |
| Section 84 | Amends s. 489.517, F.S., reducing continuing education requirements; |
| Section 85 | Amends s. 489.518, F.S., revising training requirements for burglar alarm system agents; |
| Section 86 | Amends s. 492.104, F.S., conforming provisions; |
| Section 87 | Amends s. 492.108, F.S., revising requirements for a license by endorsement; |
| Section 88 | Amends s. 492.111, F.S., deleting the requirements for a certificate of authorization for a professional geologist; |
| Section 89 | Amends s. 492.113, F.S., conforming provisions; |
| Section 90 | Amends s. 492.115, F.S., conforming provisions; |
| Section 91 | Creates s. 509.102, F.S., relating to state preemption of food truck regulation; |
| Section 92 | Amends s. 548.003, F.S., deleting the requirement for the Florida State Boxing Commission to adopt rules relating to a timekeeper; |
| Section 93 | Amends s. 548.017, F.S., deleting the licensure requirement for timekeepers and announcers; |
| Section 94 | Amends s. 553.5141, F.S., conforming provisions; |
| Section 95 | Amends s. 553.74, F.S., revising the membership of the Florida Building Commission; |

| | |
|-------------------|--|
| Section 96 | Amends s. 558.002, F.S., conforming provisions; |
| Section 97 | Amends s. 823.15, F.S., allowing certain unlicensed individuals to perform microchipping services; |
| Section 98 | Provides an effective date. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have a significant negative fiscal impact on state revenues. Over the next three fiscal years, the estimated reduction totals \$3,619,733 as follows:²²⁸

Division of Professions: The bill should result in a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,501,290 in FY 2020-21, \$438,233 in FY 2021-22, and \$1,650,870 in FY 2022-23.

The following fees are eliminated:

- Office of Talent Agencies for initial licensure and renewals of talent agencies.
- Board of Architecture and Interior Design for business licenses for both interior designers and architects.
- Board of Cosmetology for initial registration and renewal of hair braiders, hair wrappers and body wrappers.
- Board of Landscape Architecture for the issuance and renewal of certificates of authorization for businesses.
- Board of Professional Geologists for the issuance and renewal of certificates of authorization for businesses.

Division of Regulation: Revenue reduction of approximately \$830 in FY 2020-21, \$830 in FY 2021-22, and \$830 in FY 2022-23.

- Business agent and labor organization license fees are eliminated.

Florida Boxing Commission: Revenue reduction of approximately \$1,450 in FY 2020-21, \$1,450 in FY 2021-22, and \$1,450 in FY 2022-23.

- The fees received by the department from the Boxing Commission for the licensure of timekeepers and announcers are eliminated.

Division of Florida Condominiums, Timeshares and Mobile Homes: (Yacht and Ship Brokers) Revenue reduction of approximately \$5,900 in FY 2020-21, \$7,500 in FY 2021-22, and \$9,100 in FY 2022-23.

As a result of the revenue reduction, there will be a reduction in the 8% service charge to General Revenue of approximately \$122,250 in FY 2020-21, \$75,687 in FY 2021-22, and \$134,216 in FY 2022-23.²²⁹

For more detail of the reduction of revenues, see *Fiscal Comments*.

2. Expenditures:

²²⁸ Florida Department of Business and Professional Regulation, Agency Analysis of 2020 HB 1193, p. 19 (Jan. 22, 2020).

²²⁹ Email from Lynn Smith, Planning and Budgeting Administrator, Florida Department of Business and Professional Regulation, Regarding General Revenue Service Charge (Jan. 22, 2020)

The bill will result in a reduction of expenditures related to the reduced workload provided through deregulation of entities currently regulated by the department. The estimated reduction includes a reduction of \$191,208 in FY 2020-21, \$204,128 in FY 2021-22, and \$197,708 in FY 2022-23.²³⁰

For more detail of the reduction of expenditures, see *Fiscal Comments*.

To implement the bill, the department will need to make changes to Versa and the Interactive Voice Response system to accommodate modifications. Modifications can be made within existing resources.²³¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

²³⁰ Florida Department of Business and Professional Regulation, Agency Analysis of 2020 HB 1193, pp. 19-20 (Jan. 22, 2020).

²³¹ Florida Department of Business and Professional Regulation, Agency Analysis of 2020 HB 1193, p. 18 (Jan. 22, 2020).

In addition, current licensees should see the following fee reductions:²³²

- Professions: An estimated expenditure reduction of approximately \$1,501,290 in FY 2020-21, \$438,233 in FY 2021-22, and \$1,650,870 in FY 2022-23.
- Regulation: An estimated expenditure reduction of approximately \$830 in FY 2020-21, \$830 in FY 2021-22, and \$830 in FY 2022-23.
- Boxing Commission: An estimated expenditure reduction of approximately \$1,450 in FY 2020-21, \$1,450 in FY 2021-22, and \$1,450 in FY 2022-23.
- Condominiums: (Yacht and Ship Brokers) An estimated expenditure reduction of approximately \$5,900 in FY 2020-21, \$7,500 in FY 2021-22, and \$9,100 in FY 2022-23.

Interior designers, labor organizations, auctioneers, talent agents, pugilistic announcers, pugilistic timekeepers, hair braiders, hair wrappers, body wrappers, nail painters, and makeup artists will no longer need to pay costs associated with professional licensure.

Unlicensed individuals will be able to offer dietetic and nutrition services without paying costs associated with professional licensure.

Nail specialists, facial specialists, full specialists, barbers, and restricted barber applicants will require less training to obtain licensure, which may lead to a reduced training cost.

Landscape architects, geologists, interior designers, and architects will no longer need to pay costs associated with retaining certificates of authorization for business organizations.

Barbers, building code professionals, construction and electrical contractors, cosmetologists, engineers, geologists, home inspectors, veterinarians, landscape architects, and certified public accountants will have an additional pathway for a license by endorsement or examination to be able to practice in Florida.

Cosmetologists and electrical and alarm system contractors will be required to complete less continuing education for license renewal, which will lead to a reduction in costs to maintain a license.

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

D. FISCAL COMMENTS:

Detail of Estimated Revenue Reductions:²³³

| DESCRIPTION | FY 20-21 | FY 21-22 | FY 22-23 |
|---|--------------------|------------------|--------------------|
| Initial License: | | | |
| Architecture Business | (418,000) | (25,500) | (443,500) |
| Body Wrappers | (109,900) | (109,925) | (144,075) |
| Geologists (Business) | (129,150) | (6,650) | (135,800) |
| Hair Braider | (83,975) | (84,025) | (116,125) |
| Hair Wrappers | (21,050) | (21,075) | (29,050) |
| Interior Design (Individual)* | (396,875) | (11,875) | (408,750) |
| Interior Design Business | (139,500) | (7,375) | (146,875) |
| Landscape Architecture - Business | (4,715) | (141,373) | (4,715) |
| Talent Agencies | (189,945) | (20,655) | (210,600) |
| | | | |
| Business Agents | (525) | (525) | (525) |
| Labor Organizations-Organizations | (305) | (305) | (305) |
| | | | |
| Boxing Announcer | (750) | (750) | (750) |
| Boxing Timekeeper | (700) | (700) | (700) |
| | | | |
| Yacht and Ship Branch Office License | (5,900) | (7,500) | (9,100) |
| | | | |
| FEES | (1,501,290) | (438,233) | (1,650,870) |
| | | | |

*This number is an estimate based on eliminating the license. There is not an estimate for revenue reduction based on the voluntary registration.

Detail of Expenditure Reductions by Board:

The following chart includes the estimated reductions in expenditures by DBPR related to the deregulation of the boards/professions included in the bill.²³⁴ After a year of actual, realized savings, the department will propose budget savings in the Fiscal Year 2021-22 Legislative Budget Request to be permanently reduced.

| | FY 2020-21 | FY 2021-22 | FY 2022-23 |
|---|----------------|----------------|----------------|
| Florida Building Commission | 17,340 | 17,340 | 17,340 |
| Architecture and Interior Design | 102,600 | 106,700 | 106,400 |
| Auctioneers | 55,712 | 60,811 | 55,712 |
| Cosmetology | 10,900 | 13,100 | 13,600 |
| Talent Agents | 21,996 | 23,517 | 21,996 |
| Total Cost Savings: | 191,208 | 204,128 | 197,708 |

The elimination of license fees will result in operating accounts closing with negative balances in the Professional Regulation Trust Fund. The department provided the following statement:²³⁵

²³³ Email from Lynn Smith, Planning and Budgeting Administrator, Florida Department of Business and Professional Regulation, Regarding General Revenue Service Charge (Jan. 22, 2020)

²³⁴ Florida Department of Business and Professional Regulation, Agency Analysis of 2020 HB 1193, pp. 19-20 (Jan. 22, 2020).

²³⁵ Email from Lynn Smith, Planning and Budgeting Administrator, Florida Department of Business and Professional Regulation, RE: Statement regarding negative balances in the Professional Regulation Trust Fund (Jan. 23, 2020).

Negative Board Account Balances and Auctioneer Recovery Fund Claims

As of June 30, 2019, the Board of Professional Geologists operating account, the Talent Agencies operating account, and the Talent Agencies unlicensed activity account reflected negative balances.

The proposed elimination of the license fees for boards that have a deficit balance will result in the accounts closing with a negative balance. The operating and unlicensed activity accounts for Talent Agencies will close with negative balances in FY 2019-20. Each of the funds may have additional costs that may not be posted until after July 1, 2020, the effective date of the bill.

The operating account deficit for the Board of Professional Geologists will increase by the end of FY 2019-20. Several accounts with negative balances have borrowed from other board accounts during prior fiscal years in which the negative balances in the accounts needed to be addressed. Pursuant to s. 455.219, F.S., and Rule 61-5.004, F.A.C., all loans will be repaid with interest. For the negative balance accounts associated with professions or boards which would not continue pursuant to amendments in the bill, clarification of budget authority for repayment of the borrowed amounts from other boards may be needed.

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.

B. RULE-MAKING AUTHORITY:

Application, forms, rules, and rule chapters will need to be updated related to the following licensure programs:

- Barber's Board,
- Boxing Commission,
- Board of Cosmetology,
- Board of Professional Engineers,
- Board of Professional Geologists,
- Building Code Administrators and Inspectors Board,
- Board of Veterinary Medicine,
- Board of Landscape Architecture,
- Construction Industry Licensing Board,
- Electrical Contractor's Licensing Board,
- Board of Accountancy,
- Florida Building Commission,
- Board of Architecture and Interior Design,
- Talent Agencies, and
- Dieticians and Nutritionists.

DBPR, DOH, and the boards have sufficient rulemaking authority to make required changes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2020, the Commerce Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute for committee substitute. The amendment:

- Removes provisions from the bill related to auctioneers.
- Removes provisions from the bill related to asbestos abatement professionals.
- Changes provisions in the bill related to interior designers to provide for a voluntary registration.
- Waives certain requirements to obtain a commercial driver license for military veterans.
- Prohibits local governments from imposing a fee, license, or regulation on food trucks, except for those related to special events and zoning.
- Revises barber training hours to 900 hours, from 600 hours; and restricted barbers to 600 hours, from 400 hours. (Current law requires 1,200 hours for barbers and 1,000 hours for restricted barbers).
- Revises nail specialist training hours to 180 hours, from 150 hours; facial specialist training hours to 220 hours, from 165 hours; and full specialists to 400 hours, from 300 hours; and clarifies that these hours for full specialists are aligned with Pell Grant requirements.
- Clarifies the experience needed for firesafety plans examiners and firesafety inspectors.
- Clarifies what activities qualify as “makeup application.”
- Allows certain animal organizations to contact cat and dog owners as reflected on a microchip scan.
- Clarifies that applicants for a contractor license that hold a building construction bachelors’ degree only have to take the business and finance portion of the licensure examination.
- Requires certain out-of-state applicants for construction contractor or architect licenses to complete a 2 hour course on wind mitigation related to the Florida Building Code.
- Requires certain out-of-state applicants for electrical and alarm system contractor licenses to complete a 2 hour course on the Florida Building Code.
- Revises continuing education hours for electrical contractors to 11 hours, from 7 hours (Current law requires 14 hours).
- Prohibits the Department of Health from disciplining a professional license when a licensee defaults on a student loan.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.