

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 474

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Albritton

SUBJECT: Deregulation of Professions and Occupations

DATE: February 3, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

PLEASE MAKE SELECTION

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**I. Summary:**

CS/SB 474 relates to businesses and professions regulated by the Department of Business and Professional Regulation (DBPR) and health professionals regulated by the Department of Health (DOH). The bill:

- Repeals the authority of the DOH to suspend or revoke a professional license because of a default on a student loan or failure to comply with service scholarship obligations;
- Waives the requirement to pass the commercial driver skills test for a military service member or veteran with the specified training;
- Preempts the regulation of mobile food dispensing vehicles (food trucks) to the state, prohibits local government from requiring a license, registration, or permit, and prohibits local governments from prohibiting the operation of food trucks; and
- Revises the membership of the Florida Building Commission.

The bill repeals registration requirements for labor organizations and their business agents, and license or registration requirements for the following professions regulated by the DBPR:

- Hair braiders, hair wrappers, and body wrappers; and
- Boxing announcers and timekeepers.

The regulation of interior design is revised by the bill to provide for a voluntary certificate of registration to practice interior design in place of the current license requirement. Under the amendment, the certificate of registration is not required to practice interior design. To qualify for registration, an interior designer must have satisfactorily passed a qualification examination.

Only a registered interior designer may use a seal issued by the DBPR when submitting documents for the issuance of a building permit. The bill imposes a nonrefundable biennial fee of no more than \$75 for a certificate of registration for interior designers.

The bill deletes the requirement that a yacht and ship broker must have a separate license for each branch office. The bill eliminates the additional business or firm license required for the following professional licensees:

- Auctioneers;
- Architects and interior designers; and
- Landscape architects.

The bill provides additional options for the following professionals, if licensed in another state, to qualify for a professional license in Florida:

- Building code administrators and inspectors;
- Home inspectors;
- Engineers;
- Certified public accountants;
- Veterinarians;
- Barbers;
- Cosmetologists;
- Construction and electrical and alarm contractors; and
- Landscape architects.

For barbers, the bill reduces the minimum number of hours of training required for licensure from 1200 hours to 900 hours. For cosmetologists, the bill reduces the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours. The bill also reduces the number of training hours required to be registered as a nail, facial, or full specialist.

A fiscal analysis for CS/SB 474 was not available for the preparation of this bill analysis. According to DBPR, the elimination of licensing requirements under SB 474 will reduce state government revenues (DBPR) by \$3,143,723 over the next three fiscal years (FY 2020-21 to FY 2022-23). For the regulation of professions, a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23. The reduction related to the deregulation of business agent and labor organization license fee reduction is anticipated to be \$830 annually. For the Boxing Commission, the revenue reduction is approximately \$1,450 annually. For the Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) the revenue reduction is approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23. As a result of the revenue reduction, there will be a reduction in the 8 percent service charge to General Revenue of approximately \$96,220 in Fiscal Year 2020-21, \$45,952 in Fiscal Year 2021-22, and \$109,326 in Fiscal Year 2022-23. (See section V. Fiscal Impact Statement.)

Except as otherwise expressly provided in the act, the bill takes effect on July 1, 2020.

## II. Present Situation:

For ease of reference, the Present Situation for each section of CS/SB 474 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (the DBPR) is provided below.

### Organization of the Department of Business and Professional Regulation

- Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:
- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.<sup>1</sup> The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.<sup>2</sup>

### Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation,”<sup>3</sup> as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.<sup>4</sup>

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state,”<sup>5</sup> and regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;

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<sup>1</sup> Section 548.003(1), F.S.

<sup>2</sup> See Parts I and III of ch. 450, F.S.

<sup>3</sup> See s. 455.01(6), F.S.

<sup>4</sup> See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel at the DBPR. See s. 455.221(1), F.S.

<sup>5</sup> Section 455.201(2), F.S.

- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.<sup>6</sup>

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.<sup>7</sup>

### **DBPR Boards**

Fifteen boards and programs exist within the Division of Professions,<sup>8</sup> two boards are within the Division of Real Estate, and one board exists in the Division of Certified Public Accounting.

### **Permitting, Registration, Licensing, and Certification**

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.<sup>9</sup>

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “license,” which may be referred to as either a permit, registration, certificate, or license.<sup>10</sup> Those who are granted licenses are referred to as licensees.<sup>11</sup>

In Fiscal Year 2018-2019, the Division of Accountancy had 39,591 active licensees, the Real Estate Commission had 293,012 active licensees, and the Board of Professional Engineers had 65,196 licensees.<sup>12</sup> In Fiscal Year 2018-2019, there were 439,821 active licensees in the Division of Professions,<sup>13</sup> including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;

<sup>6</sup> *Id.*

<sup>7</sup> Section 455.201(4)(b), F.S.

<sup>8</sup> Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers’ Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors’ Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

<sup>9</sup> Section 455.219(1), F.S.

<sup>10</sup> Section 455.01(4), F.S.

<sup>11</sup> Section 455.01(5), F.S.

<sup>12</sup> Florida Department of Business and Professional Regulation, *Fiscal Year 2018-2019 Annual Report*, page 19, available at: [http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport\\_FY1819.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf) (last visited Feb. 3, 2020).

<sup>13</sup> Of the total 460,857 licensees in the Division of Professions, 21,036 were inactive. *See supra* note 12.

- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Harbor pilots;
- Landscape architects;
- Mold-related services;
- Talent agencies; and
- Veterinarians.

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

- Condominium associations under ch. 718, F.S.;
- Cooperative associations under ch. 719, F.S.;
- Florida mobile home parks and related associations under ch. 723, F.S.;
- Vacation units and timeshares under ch. 721, F.S.;
- Yacht and ship brokers and related business entities under ch. 326, F.S.; and
- Homeowner's associations under ch. 720, F.S. (jurisdiction is limited to arbitration of election and recall disputes).<sup>14</sup>

### **III. Effect of Proposed Changes:**

For ease of reference to each of the subjects addressed in CS/SB 474, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

#### **Commercial Driver's License**

##### ***Present Situation***

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;

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<sup>14</sup> Section 720.306(9)(c), F.S.

- A vehicle that transports hazardous materials and that is required to be placarded in accordance with 49 C.F.R. part 172, subpart F;
- A tank vehicle transporting hazardous materials; and
- A motorcycle.

### *Effect of Proposed Changes*

**Section 3** of the bill amends s. 322.57(4), F.S., to waive the requirement to pass the commercial driver skills test for a military service member or veteran with specified training, including having at least 2 years of experience in military service driving vehicles that would otherwise require a commercial driver license to operate. To qualify for the waiver, the person must have been honorably discharged from military service within 1 year of the application for the waiver. The person must complete every other requirement for a commercial driver's license within 1 year of receiving a waiver.

## **Yacht and Ship Broker Branch Office Licenses**

### *Present Situation*

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the Division of Florida Condominiums, Timeshares and Mobile Homes of the DBPR, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.<sup>15</sup>

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.<sup>16</sup> Each yacht or shipbroker must maintain a principal place of business in Florida and may establish branch offices in Florida. A separate license must be maintained for each branch office.<sup>17</sup> Applicants for a branch office license pay a \$100 fee, and the license must be renewed every 2 years.<sup>18</sup>

### *Effect of Proposed Changes*

**Section 4** of the bill amends s. 326.004(13), F.S., to delete the requirement for a separate license for each branch office maintained by a yacht and ship broker. The current law provisions related to licensing for yacht brokers and salespeople are retained.

## **Labor Organizations**

### *Present Situation*

Chapter 447, F.S., governs the licensing and regulation of labor organizations, and related business agents in the state. The Division of Regulation within the DBPR oversees the licensing and regulation of labor organizations. The Division of Regulation processes license applications

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<sup>15</sup> See ch. 326, F.S., and, Department of Business and Professional Regulation, *Yacht and Ship*, available at: <http://www.myfloridalicense.com/DBPR/yacht-and-ships/> (last visited Feb. 3, 2020).

<sup>16</sup> Section 326.004(1), F.S.

<sup>17</sup> Section 326.004(13), F.S.

<sup>18</sup> See Fla. Admin. Code R. 61B-60.002 (2019).

and regulates the activities of labor unions and their officers, agents, organizers, and representatives.<sup>19</sup>

A labor organization is defined as “any 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.”<sup>20</sup>

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.<sup>21</sup> Business agents are defined as “any 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; and
- Soliciting or receiving from any employer any right or privilege for employees.”<sup>22</sup>

Applicants for a business agent license must pay a \$25 license fee and must meet a number of licensure requirements.<sup>23</sup> Labor organization applicants must pay an annual fee of \$1.<sup>24</sup>

### *Effect of Proposed Changes*

**Sections 5 through 13** of the bill amend ch. 447, F.S., to eliminate the registration and regulation of labor organizations and their business agents by the DBPR and the requirement that the Public Employees Relations Commission notify the DBPR of registrations and renewals of such organizations. Provisions relating to the right to work and strike, recordkeeping, rights of franchise for labor organizations, civil causes of action, criminal penalties, and recognition of federal regulations are not affected by the bill.

### **Reciprocal Licensing by the DBPR**

#### *Present Situation*

Section 455.213, F.S., provides general licensing provisions for the DBPR. Some professions licensed by the DBPR authorize the DBPR or the applicable board to issue a license by endorsement (reciprocity) to a person licensed in another state, if the other state’s license qualification requirements are equal to or greater than, the profession’s license qualification requirements in Florida.<sup>25</sup>

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<sup>19</sup> Section 447.01, F.S., and *See* The Department of Business and Professional Regulation, *Labor Organizations and Business Agent*, available at: <http://www.myfloridalicense.com/DBPR/labor-organizations-and-business-agents/> (last visited Feb. 3, 2020).

<sup>20</sup> Section 447.02(1), F.S.

<sup>21</sup> Sections 447.04(2) and 447.06, F.S.

<sup>22</sup> Section 447.02(2), F.S.

<sup>23</sup> Section 447.04(2), F.S.

<sup>24</sup> Section 447.06(2), F.S.

<sup>25</sup> *See*, for example, s. 477.019(6), F.S., relating to licensure by endorsement for a person licensed as a cosmetologist in another state.

### *Effect of Proposed Changes*

**Section 14** of the bill amends s. 455.213, F.S., to require the department or board to enter into reciprocal licensing agreements with other states when permitted by the practice act for a profession. The bill requires the department to post on its website existing reciprocity agreements with other states or to identify the states whose licensing requirements are substantially equivalent or more stringent than the requirements in Florida.

## **Healthcare Practitioner Discipline – Student Loan Obligations**

### *Present Situation*

#### **Healthcare Practitioner Licensing**

The Division of Medical Quality Assurance (MQA) within the Florida Department of Health (DOH) is responsible for the licensing and regulation of healthcare practitioners in the state. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 200 license types in over 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA. The MQA regulates the following professions:

- Acupuncturists;
- Athletic Trainers;
- Chiropractors;
- Clinical Laboratory Personnel;
- Clinical Social Workers, Marriage and Family Counselors, and Mental Health Counselors;
- Dentists;
- Hearing Aid Specialists;
- Massage Therapists;
- Medical Doctors;
- Nurses;
- Nursing Home Administrators;
- Occupational Therapists;
- Opticians;
- Optometrists;
- Orthotists and Prosthetists;
- Osteopathic Doctors;
- Pharmacists;
- Physical Therapists;
- Podiatrists;
- Psychologists;
- Respiratory Care Practitioners;
- Speech-Language Pathologists and Audiologists;
- Dietetics and Nutrition Practitioners;
- Electrologists;
- Licensed Midwives;
- Physician Assistants;



- Certified Master Social Workers;
- Emergency Medical Technicians;
- Medical Physicists;
- Paramedics;
- Radiologic Technicians; and
- School Psychologists.

### **Healthcare Practitioner Discipline**

Section 456.072(1)(k), F.S., provides that the DOH may discipline a healthcare practitioner for failing to perform any statutory or legal obligation placed upon a healthcare practitioner, which specifically includes failing to repay a government-backed student loan or comply with a service scholarship obligation. If the DOH finds that a healthcare practitioner has defaulted on his or her student loans or failed to comply with a service scholarship, at a minimum, the DOH must:

- Suspend the practitioner's license until he or she agrees to new loan repayment terms or resumes the scholarship obligation;
- Place the practitioner on probation for the duration of the student loan or scholarship obligation period; and
- Impose a fine equal to 10 percent of the defaulted loan amount.

Each month, the DOH must obtain information from the United States Department of Health and Human Services (USDHHS) necessary to determine the Florida healthcare practitioners that have defaulted on government-backed student loans.<sup>26</sup> Upon learning that a healthcare practitioner has defaulted on such a student loan, the DOH must notify the practitioner that he or she has 45 days to provide the DOH with proof of a new repayment plan, or such practitioner will be subject to an emergency order suspending the practitioner's license.<sup>27</sup> The DOH may proceed with additional disciplinary action against the practitioner, regardless if he or she provides proof of entering a new repayment plan.<sup>28</sup>

In the 2017-2018 fiscal year, the DOH reported 850 student loan defaults, 76 completed investigations, and 26 emergency suspension orders filed.<sup>29</sup> In the 2018-2019 fiscal year, the DOH reported 87 student loan defaults, 250 completed investigations, 121 emergency suspension orders filed, and further disciplinary action taken on 29 licensees.<sup>30</sup> In 2018-2019, the most affected licensed professions were Certified Nursing Assistant (43 suspension orders) and Registered Nurse (18 suspension orders).<sup>31</sup>

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<sup>26</sup> Section 456.0721, F.S.

<sup>27</sup> See s. 456.074, F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2017-2018, Table 14: Student Loan Defaults*, at 44, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1718.pdf> (last visited Feb. 3, 2019).

<sup>30</sup> Florida Department of Health, *Annual Report and Long-range Plan Fiscal Year 2018-2019, Table 14: Student Loan Defaults*, at 43, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1819.pdf> (last visited Feb. 3, 2019).

<sup>31</sup> *Id.*

### *Effect of Proposed Changes*

**Sections 15 through 17** of the bill repeal the authority of the DOH requirements to suspend or revoke a professional license because of a default on a student loan or failure to comply with service scholarship obligations. Specifically, the bill:

- Amends s. 456.072, F.S., to remove a licensee’s failure to repay a federal- or state-guaranteed student loan or failure to comply with service scholarship obligations from the list of violations for which the DOH may take disciplinary action;
- Amends s. 456.074, F.S., to remove the requirement that the DOH notify a health care practitioner in default on a student loan that he or she is subject to suspension of a license unless the practitioner provides proof of repayment terms within 45 days of the notification; and
- Repeals s. 456.0721, F.S., to remove the requirement that the DOH obtain monthly reports from the USSHHS regarding health care practitioners who have failed to repay a student loan or comply with scholarship service obligations.

### **Auctioneers**

#### *Present Situation*

Auction businesses, auctioneers, and apprentice auctioneers are licensed and regulated in accordance with part VI of ch. 468, F.S., and by the Florida Board of Auctioneers within the DBPR. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the auctioneering industry.

An ‘auction business’ is a “sole proprietorship, partnership, or corporation which in the regular course of business arranges, manages, sponsors, advertises, promotes, or carries out auctions, employs auctioneers to conduct auctions in its facilities, or uses or allows the use of its facilities for auctions.”<sup>32</sup>

A license is required before any person can auction or offer to auction any property in this state, and the auctioneer practice act applies to all auctions in the state with certain exceptions.<sup>33</sup>

In order to qualify for licensure as an auctioneer, an applicant must:

- Be 18 years or older;
- Have not committed any act or offense in the state or any other jurisdiction which would constitute a basis for disciplinary action in Florida;
- Have held an apprentice license and has served as an apprentice for 1 year or more, or have completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board; and
- Pass the required examination.<sup>34</sup>

The Florida Board of Auctioneers assesses a variety of fees for licensure as an auctioneer, including application fees, examination fees, initial license fees, and renewal fees. For example,

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<sup>32</sup> Section 468.382(1), F.S.

<sup>33</sup> Sections 468.385(2) and 468.383, F.S.

<sup>34</sup> Sections 468.385(6), F.S.

the application fee for an auctioneer license through examination is \$50, the examination fee is \$250 payable to the DBPR plus \$10 payable to the testing service, and the initial license fee for an auctioneer is \$150.<sup>35</sup>

An auctioneer may be disciplined or have a civil action brought against them by the DBPR for one of the following violations:<sup>36</sup>

- Violating any trade or commerce law;
- Misrepresenting property for sale at auction;
- Failing to return money or property within 30 days of obtaining control of such money or property;
- False, deceptive, misleading, or untruthful advertising;
- Bad faith or dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money;
- Refusing or neglecting to pay public moneys into the State Treasury when prescribed by law; and
- Other violations of the practice act.

An auctioneer commits a third degree felony for certain violations of the practice act, including:<sup>37</sup>

- Failing to return money or property within 30 days of control of such money or property;
- Bad faith or dishonesty in a sales transaction;
- Using false bidders, cappers, or shills;
- Comingling auction monies with personal money; and
- Refusing or neglecting to pay the public moneys into the State Treasury when prescribed by law.

There is no continuing education requirement for auctioneers or auctioneer apprentices.

There were 2,600 active licensed auctioneers and 24 disciplinary orders issued in the 2018-2019 fiscal year.<sup>38</sup>

### *Effect of Proposed Changes*

**Section 18** of the bill amends s. 468.385, F.S., to remove the requirement that an auction business must be licensed. Instead, it requires an auction business to be owned by an auctioneer who is licensed by the DBPR.

**Section 72** of the bill amends s. 559.25(3), F.S., to delete the exemption for licensed auctioneers from compliance with requirements relating to fire and going-out-of-business sales and auctions.<sup>39</sup>

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<sup>35</sup> See Fla. Admin. Code R. 61G2-3.001 (2019).

<sup>36</sup> Section 468.389, F.S.

<sup>37</sup> Section 468.391, F.S.

<sup>38</sup> *Supra* note 12 at pp. 19 and 90.

<sup>39</sup> See s. 559.21, F.S., relating to the regulation of sales.

## Building Code Administrators and Inspectors

### *Present Situation*

Building officials, inspectors, and plans examiners are regulated by part XII of ch. 468, F.S., and are regulated and licensed by the Florida Building Code Administrators and Inspectors Board (FBCAIB).<sup>40</sup>

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.<sup>41</sup>

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.<sup>42</sup>

A one and two family dwelling inspector may only inspect one and two family dwelling and accessory structures.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes.<sup>43</sup> 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:

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.<sup>44</sup>

In order to become licensed, building code administrators, inspectors, and plans examiners must take the licensing exam required for the category sought.

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:<sup>45</sup>

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<sup>40</sup> Section 468.605, F.S.

<sup>41</sup> Section 468.603(1), F.S.

<sup>42</sup> Section 468.603(6), F.S.

<sup>43</sup> Section 468.603(7), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> Section 468.609(3), F.S.

- 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
- Have 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:<sup>46</sup>

- Have 4 to five 5 combined relevant education and experience, depending on how the applicant chooses to qualify;
- Complete an approved cross-training program and have at least 2 years of experience;
- Hold a standard certificate issued by the FBCAIB 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 construction, inspection, plans review, fire code inspections and fire plans review of new buildings as a firesafety inspector; or
  - Complete a 4 year internship certification program.

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:<sup>47</sup>

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

There were 9,056 active licensed building code administrators and inspectors and six disciplinary orders issued in the 2018-2019 fiscal year.<sup>48</sup>

### *Effect of Proposed Changes*

**Section 19** of the bill amends s. 468.603(5)(f), F.S., to rename the license category of “one and two family dwelling inspector” with the term “residential inspector.” The term is also redefined to include inspections of one-family, two-family, or three-family residences not exceeding two habitable stories or more than one uninhabitable story and accessory use structure in connection to the residence.

<sup>46</sup> Section 468.609(2), F.S.

<sup>47</sup> Section 468.613, F.S.; and Fla. Admin. Code R. 61G19-6.0035(4) (2019).

<sup>48</sup> *Supra* note 12 at pp. 19 and 90.

**Section 20** of the bill amends s. 468.613, F.S., to require the FBCAIB to waive examination, qualification, education, or training requirements, if an applicant is licensed in another state and the applicant:

- Is at least 18 years of age;
- Is of good moral character;
- Holds 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; and
- Successfully completes an applicable examination administered by the ICC.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years after such license was last active.

## **Home Inspectors**

### *Present Situation*

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

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

- Have good moral character;
- Carry liability insurance;
- Complete a course study of at least 120 hours; and
- Pass the required examination.<sup>49</sup>

A person who is licensed in another state is eligible for a license by endorsement in Florida if the person:<sup>50</sup>

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

The 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.<sup>51</sup>

There were 7,090 active licensed home inspectors and four disciplinary orders issued in the 2018-2019 fiscal year.<sup>52</sup>

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<sup>49</sup> Section 468.8313, F.S.

<sup>50</sup> Section 468.8414(3), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Supra* note 12 at pp. 19 and 90.

### *Effect of Proposed Changes*

**Section 21** of the bill amends s. 468.8314(3), F.S., to provide an additional means for an applicant to qualify for licensure by endorsement if the applicant:

- Maintains a commercial general liability insurance policy in an amount equal to or greater than \$300,000, as provided in s. 468.8322, F.S.; and
- Holds 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.

Under the bill, an application for a license by endorsement must be made when the applicant's license in another state or territory is active or within 2 years of such license being active.

### **Engineering**

#### *Present Situation*

The practice of engineering is regulated by the Florida Board of Professional Engineers (FBPE). Unlike most professions regulated by the DBPR, the administrative, investigative, and prosecutorial services for the FBPE are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.<sup>53</sup>

In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must graduate from an approved engineering curriculum of 4 years or more in an FBPE-approved school, college, or university, and have a record of 4 years of active engineering experience.<sup>54</sup>

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if the person:<sup>55</sup>

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

The FBPE may deem 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 20 years of continuous professional-level engineering experience.<sup>56</sup>

The FBPE may also deem that an applicant who seeks licensure by endorsement who has passed an examination substantially equivalent to the fundamentals examination and the principles and

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<sup>53</sup> Section 471.038(3), F.S.

<sup>54</sup> Section 471.013, F.S.

<sup>55</sup> Section 471.015(3), F.S.

<sup>56</sup> Section 471.015(5), F.S.

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.<sup>57</sup>

### *Effect of Proposed Changes*

**Section 22** of the bill amends s. 471.015(5), F.S., to reduce the number of years that a professional engineer must be licensed in another jurisdiction 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, the applicant is deemed to have passed the fundamentals examination. If such applicant has been licensed in another jurisdiction for 15 years, the applicant is deemed to have passed both the fundamental examination and the principles and practices examination.

The bill deletes the requirement that an applicant for endorsement have the applicable number of continuous professional-level engineering experience, i.e., 20 years for an applicant who is deemed to have passed the fundamentals examination, or 25 years for an applicant who is deemed to have passed both the fundamental examination and the principles and practices examination.

## **Certified Public Accountants**

### *Present Situation*

The Florida Board of Accounting (board) in the DBPR is the agency responsible for regulating and licensing nearly 35,570 active and inactive CPAs and more than 5,700 accounting firms in Florida.<sup>58</sup> The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.<sup>59</sup>

A certified public accountant is a person who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.<sup>60</sup>

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.<sup>61</sup> To engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S., an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

To be licensed as a certified public accountant, a person must:<sup>62</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *Supra*, note 12 at p. 12.

<sup>59</sup> Section 473.303, F.S.

<sup>60</sup> *See* s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

<sup>61</sup> Section 473.302(8), F.S.

<sup>62</sup> Sections 473.308(2)-(5), F.S.



- 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.

Section 473.308, F.S., provides for the licensure of individuals desiring to be licensed as a certified public accountant. Section 473.308(7), F.S., provides for licensure of certified public accountants by endorsement. To qualify for licensure by endorsement, the applicant must satisfy education, work experience, and good moral character requirements. Applicants for endorsement must also have completed continuing education courses that are equivalent to the continuing education requirements in this state during the 2 years immediately preceding the application for licensure by endorsement.

If the applicant is not licensed in another state or territory, the applicant must:<sup>63</sup>

- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida certified public accountant.

If the applicant is licensed in another state or territory, the applicant must:<sup>64</sup>

- Have satisfied licensing criteria that was substantially equivalent to the licensure criteria in this state at the time the license was issued, or if the licensing criteria was not substantially equivalent to Florida's, the applicant must have passed a national, regional, state or territorial licensing examination with examination criteria that was substantially equivalent to the examination criteria required in Florida;
- Have a valid license in another state or territory for at least 10 years before applying for a license in Florida; and
- Have passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state.

### *Effect of Proposed Changes*

**Section 23** of the bill amends s. 473.308, F.S., to delete the requirement that during the 2 years immediately preceding the application for licensure, applicants for a license by endorsement must have completed 80 hours of continuing education before they are eligible for such license.

## **Veterinary Medicine**

### *Present Situation*

Veterinary medical practice is regulated by ch. 474, F.S., and veterinarians are licensed by the Board of Veterinary Medicine.<sup>65</sup>

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<sup>63</sup> Section 473.308(7)(a), F.S.

<sup>64</sup> Section 473.308(7)(b), F.S.

<sup>65</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

A veterinarian is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,<sup>66</sup> 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.<sup>67</sup>

To be licensed as a veterinarian, an applicant must:

- Graduate 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 obtain a certificate from the Education Commission for Foreign Veterinary Graduates;
- Successfully complete the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- Successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida.<sup>68</sup>

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.<sup>69</sup>

A person who is licensed in another state or country is eligible for licensure by endorsement in Florida, if the person has:<sup>70</sup>

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

The 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.<sup>71</sup>

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

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<sup>66</sup> See s. 474.202(11), F.S.

<sup>67</sup> See s. 474.202(9), F.S. The profession also includes determining the health, fitness, or soundness of an animal, and performing any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

<sup>68</sup> Fla. Admin. Code R. 61G18-11.002 (2019).

<sup>69</sup> American Association of Veterinary State Boards, *International Pathways*, available at: <https://www.aavsb.org/pave/> (last visited Feb. 3, 2020).

<sup>70</sup> Section 474.217(1), F.S.

<sup>71</sup> Section 474.217(2), F.S.

providing veterinary medical services at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location,<sup>72</sup> and must obtain a permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.<sup>73</sup>

The board establishes, by rule, minimum standards for the operation of limited service veterinary medical practices,<sup>74</sup> which currently allows such practices to offer vaccinations, immunizations, and parasitic control services.<sup>75</sup>

### *Effect of Proposed Changes*

**Section 24** of the bill amends s. 474.202(6), F.S., to codify the current board rule allowing limited service veterinary practices to perform vaccinations, immunizations, and parasitic control, and authorizes those practices to perform microchipping.

**Section 25** of the bill amends s. 474.207, F.S., to allow graduates of a veterinary medicine program recognized by the PAVE to be eligible for licensure as a veterinarian.

**Section 26** of the bill amends s. 474.217, F.S., to allow an applicant for licensure by endorsement who has been licensed in a jurisdiction of the United States to qualify for licensure in Florida if the applicant has successfully passed a licensing examination that is equivalent, to or more stringent than, the NAVLE.

## **Barbering**

### *Present Situation*

The term “barbering” in ch. 476, F.S., the Barbers’ Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard, applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.<sup>76</sup>

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must:

- Be at least 16 years of age;
- Pay the application fee; and
- Have held an active valid license in another state for at least 1 year,<sup>77</sup> or have a minimum of 1,200 hours of specified training.<sup>78</sup>

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<sup>72</sup> Section 474.202(6), F.S.

<sup>73</sup> Section 474.215(7)-(8), F.S.

<sup>74</sup> Section 474.215(7), F.S.

<sup>75</sup> Fla. Admin. Code R. 61G18-15.007 (2019).

<sup>76</sup> See s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.

<sup>77</sup> See s. 476.144(5), F.S. Licensure by endorsement may also allow a practitioner holding an active license in another state or country to qualify for licensure in Florida.

<sup>78</sup> See s. 476.114(2), F.S.; requiring the training to include, but is not limited to, the completion of services directly related to the practice of barbering at a licensed school of barbering, a public school barbering program, or a government-operated barbering program in Florida.

The Barbers' Board is authorized to establish by rule a procedure for a barber school or program to certify a person to take the licensure examination following completion of a minimum of 1,000 hours of training and for the licensure of such person who passes the examination. Upon passage of the examination by the person seeking licensure, the training requirement of 1,200 hours is deemed satisfied; failing the examination requires completion of the full training requirement.<sup>79</sup>

Alternatively, a person may apply for and receive a "restricted license" to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers' Board.<sup>80</sup> An applicant for a restricted barber license must satisfactorily complete 600 hours of training.<sup>81</sup>

### *Effect of Proposed Changes*

**Section 27** of the bill amends s. 476.114(2)(c)2., F.S., to decrease the minimum number of hours of training required for licensure from 1200 hours to 900 hours. The bill also provides that the training must be in sanitation, safety, and laws and rules.

**Section 28** of the bill amends s. 476.144(5), F.S., to require the Barbers' Board to provide licensure by endorsement to an applicant who holds a current active license to practice barbering in another state.

The bill amends s. 477.019(6), F.S., relating to the licensing of a cosmetologist by endorsement, to provide a comparable provision for barbers. However, under the bill, an applicant for a cosmetology license by endorsement is required to complete a 2-hour course on human immunodeficiency virus and acquired immune deficiency syndrome. The bill does not require an applicant for a barber's license by endorsement to complete such a course for initial licensure. Current law requires such training as a condition for the biennial renewal of cosmetology and barber licenses.<sup>82</sup>

## **Nail and Facial Specialists, Hair Braiders, Hair Wrappers, and Body Wrappers**

### *Present Situation*

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair braiders, hair wrappers, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, within the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.<sup>83</sup>

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<sup>79</sup> See s. 476.114(2), F.S.

<sup>80</sup> See s. 476.144(6), F.S.

<sup>81</sup> Fla. Admin. Code R. 61G3-16.006 (2019).

<sup>82</sup> See s. 455.2228, F.S.

<sup>83</sup> See s. 477.015, F.S., and Department of Business and Professional Regulation, *Cosmetology*, available at: <http://www.myfloridalicense.com/DBPR/cosmetology/> (last visited Feb. 3, 2019).

Individuals are prohibited from providing manicures, pedicures, or facials in Florida without first being licensed as a cosmetologist or registered as a nail specialist, facial specialist, or full specialist.<sup>84</sup>

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under ch. 477, F.S.”<sup>85</sup> The term “specialty” is defined as “the practice of one or more of the following:

- 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.”<sup>86</sup>

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology.”<sup>87</sup> “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.<sup>88</sup>

A nail specialist may complete manicures and pedicures, and a full specialist may complete manicures, pedicures, and facials.<sup>89</sup> Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.<sup>90</sup> All cosmetology and specialty salons are subject to inspection by the DBPR.<sup>91</sup>

To qualify for a specialist license, the applicant must be at least 16 years of age and obtain a certificate of completion from an approved specialty education program.<sup>92</sup>

The specialty education program consists 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.<sup>93</sup>

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<sup>84</sup> See ss. 477.013(6) and 477.0201, F.S.

<sup>85</sup> See s. 477.013(5), F.S.

<sup>86</sup> See s. 477.013(6), F.S.

<sup>87</sup> See s. 477.013(3), F.S.

<sup>88</sup> See s. 477.013(4), F.S. A licensed cosmetologist is not required to register separately as a hair braider, hair wrapper, body wrapper, or specialist.

<sup>89</sup> See s. 477.013(6), F.S.

<sup>90</sup> See s. 477.0263, F.S. Under s. 477.0135(3), F.S., licensing is not required for a person whose occupation is confined solely to cutting, trimming, polishing, or cleansing fingernails of customers in an active, licensed barbershop, and who did so before October 1, 1985.

<sup>91</sup> See s. 477.025(9), F.S.

<sup>92</sup> See s. 477.0201, F.S.

<sup>93</sup> Fla. Admin. Code R. 61G5-22 (2019).

The applicant must submit a specialist application for registration with the DBPR with a registration fee not to exceed \$50.<sup>94</sup>

The act of applying polish to fingernails and toenails falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails.<sup>95</sup> Therefore, individuals seeking to apply polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist, as the DBPR does not issue a separate license for polishing nails.

The application of cosmetic products (makeup) by certain persons is exempted from ch. 477, F.S., under limited conditions, including application of such products in photography studio salons, in connection with certain retail sales, or during the production of qualified films.<sup>96</sup> In addition, persons providing makeup in a theme park or entertainment complex to actors or the general public are exempt from licensing requirements.<sup>97</sup>

“Hair braiding” means “the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemically treating and does not include the use of hair extensions or wefts.”<sup>98</sup>

“Hair wrapping” means the wrapping of manufactured materials around a strand 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.<sup>99</sup>

“Body wrapping” means “a treatment program that uses herbal wraps for the purpose 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.”<sup>100</sup>

A person who wishes to practice as a hair braider, hair wrapper, or body wrapper must register with the DBPR, pay the \$25 registration fee;<sup>101</sup> and:

- For hair braiders, take a 2-day board-approved 16-hour education course consisting of:
  - 5 hours of HIV/AIDS and other communicable diseases,
  - 5 hours of sanitation and sterilization,
  - 4 hours of disorders and diseases of the scalp, and
  - 2 hours of studies regarding laws affecting hair braiding.

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<sup>94</sup> Section 477.026, F.S.

<sup>95</sup> See s. 477.013(6)(a) and (b), F.S.

<sup>96</sup> See ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.

<sup>97</sup> See s. 477.0135(6), F.S.

<sup>98</sup> Section 477.013(9), F.S. A “weft” of hair is a long curtain of hair that has a seam at the top and is found on wigs and hair extensions. See <https://www.voguewigs.com/what-is-a-weft.html> (last visited Feb. 3, 2020).

<sup>99</sup> Section 477.013(10), F.S.

<sup>100</sup> Section 477.013(11), F.S.

<sup>101</sup> Section 477.026, F.S.

- For hair wrappers, take a 1-day board-approved 6-hour education course consisting of:
  - HIV/AIDS and other communicable diseases,
  - sanitation and sterilization, and
  - disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.
- For body wrappers, take a 2-day board-approved 12-hour education course consisting of:
  - HIV/AIDS and other communicable diseases,
  - Sanitation and sterilization,
  - Disorders and diseases of the skin, and
  - Laws affecting body wrapping.<sup>102</sup>

Hair braiders, hair wrappers, and body wrappers are not required to complete continuing education as a condition for renewal of the registration.<sup>103</sup>

In Florida, cosmetology and specialty salons must be licensed.<sup>104</sup> Such salons are inspected periodically by the DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.<sup>105</sup>

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,<sup>106</sup> except when services are performed in connection with:

- A special event 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;<sup>107</sup>
- 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; or
- The motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.<sup>108</sup>

The board is required to certify an applicant as qualified for licensure by endorsement if the applicant holds a current active license to practice cosmetology in another state. The board may not require proof of educational hours if the other state requires at least 1,200 hours of education and passage of a written examination. This provision is not applicable to applicants in the other state who received their license through an apprenticeship program.<sup>109</sup>

The board is also required to provide by rule the continuing education requirements to maintain the cosmetology license not to exceed 16 hours biennially. Any person whose practice is

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<sup>102</sup> See s. 477.0132, F.S. Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$350. Examples include: 1STOPCEU.com, *Home*, available at: <https://www.1stopceu.com/livezilla/knowledgebase.php?article=6332971e65219f8cdfc5d16d8b113c10> (last visited Feb. 3, 2020); and JT's Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, available at: <http://www.jtbeautysalon.com/> (last visited Feb. 3, 2020).

<sup>103</sup> Section 477.019(7)(b), F.S.

<sup>104</sup> Section 477.025(1), F.S.

<sup>105</sup> Section 477.025(9), F.S.; and Fla. Admin. Code R. Ch. 61G5-20 (2019).

<sup>106</sup> Section 477.0263(1), F.S.

<sup>107</sup> A "special event" is defined as a wedding or fashion show in Fla. Admin. Code R. 61G5-20.0015(1) (2019).

<sup>108</sup> Sections 477.0263(2) through (4), F.S.

<sup>109</sup> Section 477.019(6), F.S.

confined to hair braiding, hair wrapping, or body wrapping are exempt from the continuing education requirements.<sup>110</sup>

### *Effect of Proposed Changes*

**Section 29** of the bill amends s. 477.013(9), F.S., to expand the definition of “hair braiding” to include the weaving or interweaving of natural human hair or commercial hair, and the use of hair extensions or wefts. Under current law, the use of hair extensions or wefts is excluded from “hair braiding.”

**Section 30** of the bill repeals s. 477.0132, F.S., which provides that:

- Registration is required for hair braiding, hair wrapping, and body wrapping, and requires those registrants to take specified courses approved by the Board of Cosmetology.
- Hair braiding, hair wrapping, and body wrapping are not required to be practiced in a cosmetology salon or specialty salon; and
- Disposable implements must be used, or all implements must be sanitized in a disinfectant approved for hospital use or approved by the Federal Environmental Protection Agency, when hair braiding, hair wrapping, or body wrapping is practiced outside a cosmetology salon or specialty salon.

**Section 31** of the bill amends s. 477.0135, F.S., to specifically exempt a person whose occupation or practice is confined solely to hair braiding, hair wrapping, body wrapping, or applying polish to fingernails and toenails from registration requirements.

**Section 32** of the bill amends s. 477.019(6), F.S., to delete the requirement that an applicant for licensure by endorsement submit proof of educational hours if the license was issued in a state that requires 1,200 or more hours of prelicensure education and passage of a written examination. It also deletes the exemption for persons licensed in another state who received their license through an apprenticeship program.

The bill requires an applicant for a cosmetology license by endorsement to complete a 2-hour course on human immunodeficiency virus and acquired immune deficiency syndrome.

The bill also amends s. 477.019(7), F.S., to decrease the number of hours of continuing education required for the biennial renewal of a cosmetology license from 16 hours to 10 hours.

**Section 33** of the bill amends s. 477.0201(1), F.S., to reduce the number of hours required for a specialist registration required under current rules.

The bill requires:

- 180 hours of training for a nail specialty (the current rule requires 240 hours);
- 220 hours of training for a facial specialty (the current rule requires 260 hours); and
- 400 hours of training, or the number of hours required to maintain minimum Pell Grant requirements, for a full specialty (the current rule requires 250 hours).<sup>111</sup>

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<sup>110</sup> Section 477.019(7), F.S.

<sup>111</sup> See Fla. Admin. Code R. 61G5-22 (2019).



**Section 34** of the bill deletes the requirement in s. 477.026(1)(f), F.S., relating to license fees for hair braiders, hair wrappers, and body wrappers.

**Section 35** of the bill amends s. 477.0263(4), F.S., to delete the requirement that an appointment for a special event has to be made through a licensed salon. The bill permits a properly licensed professional to perform hair shampooing, hair cutting, hair arranging, nail polish removal, nail filing, nail buffing, and nail cleaning outside of a salon when the service is performed by a licensed person.

**Section 36** of the bill amends s. 477.0265, F.S., to delete a reference to body wrapping in a prohibition respecting the advertising of services.

**Section 37** of the bill amends s. 477.029(1)(a), F.S., to delete the criminal penalty for hair braiders, hair wrappers, and body wrappers who offer or provide services without being licensed or registered.

## **Architecture and Interior Design**

### ***Present Situation***

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations. The Board of Architecture and Interior Design, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.<sup>112</sup>

The practice or offering of architectural or interior design services to the public through certain business organizations is authorized for:

- Licensees acting through a corporation, limited liability company, or partnership; or
- A corporation, limited liability company, or partnership acting through licensees as agents, employees, officers, or partners.<sup>113</sup>

An architecture or interior design business corporation, limited liability company, partnership, or a person practicing under a fictitious name, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.<sup>114</sup>

### **Interior Design**

A person may not practice interior design unless the person is a registered interior designer or otherwise exempt from the requirement to register. If holding a valid license by the Board of Architecture and Interior Design and choosing to relinquish that license or failing to renew that

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<sup>112</sup> See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.

<sup>113</sup> Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.

<sup>114</sup> Section 481.219(2)-(3), F.S.

license, a person may not use the title “interior designer” or “registered interior designer,” or words to that effect.<sup>115</sup>

Section 481.203(4), F.S., defines a “certificate of registration” to mean a license issued by the DBPR to a natural person to engage in the practice of architecture or interior design.

The following persons may practice interior design without a license:<sup>116</sup>

- A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent himself or herself as, an interior designer.<sup>117</sup>
- An employee of a retail establishment providing “interior decorator services” on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.<sup>118</sup>

Applicants for an interior design license must pass a three-part national examination administered by the National Council for Interior Design Qualification (NCIDQ), at a cost of \$1,335, including the application fee. Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida’s licensure prerequisites.<sup>119</sup>

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$75, an unlicensed activity fee of \$5, and a biennial renewal fee of \$100.<sup>120</sup> A business entity has no regulatory obligations other than to obtain licensure.

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.<sup>121</sup>

Florida is one of eight U.S. states or territories requiring interior designers to be licensed. Approximately 20 other states allow only those persons meeting statutory requirements to hold themselves out as “registered interior designers.”<sup>122</sup>

### **Use of Seals by an Interior Designer**

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<sup>115</sup> Sections 481.223(1)(b) and (c), F.S.

<sup>116</sup> Section 481.229(6), F.S.

<sup>117</sup> Section 481.229(6)(a), F.S., provides that “residential applications” includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. “Residential applications” does not include common areas associated with instances of multiple-unit dwelling applications.

<sup>118</sup> Section 481.229(6)(b), F.S.

<sup>119</sup> See Council for Interior Design Qualification, *Become NCIDQ Certified*, available at: <http://www.cidq.org>.

<sup>120</sup> See Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2019).

<sup>121</sup> See s. 481.219, F.S.

<sup>122</sup> Commercial Interior Design Association, *State Information*, available at: <http://advocacy.iida.org/#interiordesignlaws> (last visited Feb. 3, 2020).

Section 481.221(3), F.S., authorizes the Board of Architecture and Interior Design to prescribe, by rule, one or more forms of seal to be used by licensed interior designers. Each registered interior designer must obtain a seal. All drawings, plans, specifications, or reports prepared or issued by the registered interior designer and filed for public records, and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

### **Architects**

A person who is licensed in another state is eligible for a professional architect license by endorsement in Florida if the person:<sup>123</sup>

- Qualifies to take the licensure examination, and has passed the licensure examination or a substantially equivalent examination in another jurisdiction, and has satisfied the internship requirements set forth in s. 481.211, F.S. for architects;
- Holds a valid license to practice architecture issued by another jurisdiction of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued; or
- Has passed the licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States.

### ***Effect of Proposed Changes***

**Sections 38 through 52** of the bill amend part I of ch. 481, F.S., to repeal licensure requirements for interior designers and interior design businesses. In lieu of a license requirement, the bill provides a voluntary certificate or registration to practice interior design, however, a certificate of registration is not required to practice interior design.

**Section 2** of the bill amends s. 20.165(4)(a)(2), F.S., to change the name of the Board of Architecture and Interior Design to the Board of Architecture. However, the remainder of the references in the bill retain the current name of the Board of Architecture and Interior Design throughout part I of ch. 481, F.S.

**Section 40** of the bill amends s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design to reflect that the board's duties include receiving complaints regarding investigating and disciplining persons with a certificate of registration for the practice of interior design.

**Section 41** of the bill amends s. 481.207, F.S., to authorize the Board of Architecture and Interior Design to impose a nonrefundable fee of not more than \$75 for a certificate of registration and for the biennial renewal of the certificate of registration.

**Section 42** of the bill amends s. 481.209, F.S., to revise the qualifications for a certificate of registration to practice interior design. The bill repeals the education and experience requirements in current law. Under the bill, to qualify for a certificate of registration, a person

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<sup>123</sup> Section 481.213, F.S.

must submit written proof that he or she has successfully passed the qualification examination prescribed by the NCIDQ or its successor entity, or the California Council for Interior Design Certification or its successor entity, or has successfully passed an equivalent exam as determined by the department.

**Section 43** of the bill amends s. 481.213(3), F.S., to revise the requirements for licensure by endorsement for a professional architect license to require an applicant to complete a class approved by the Board of Architecture on the Florida Building Code.

The bill creates s. 481.213(8), F.S., to provide that a person who performs residential interior design services or interior decorator services is not required to hold a certificate of registration for interior design. The bill repeals s. 481.223(1)(b), F.S., which requires registration as a condition to practice interior design, unless the person is subject to an exemption from the registration requirement.

**Sections 44 and 48** amend ss. 481.2131(1) and 481.221, F.S., respectively, to revise the requirements for seals used by a registered interior designer. Under the bill, if interior design documents are submitted for a building permit by an individual performing interior design services who is not a licensed architect, the documents must include a seal issued by the DBPR.

Additionally, the bill amends s. 481.221, F.S., to change the authority to require that the form of the seal for architects and interior designers be prescribed by rule of the DBPR instead of by rule of the Board of Architecture and Interior Design.

**Section 45** of the bill amends s. 481.215(5), F.S., to delete the requirement that the board require by rule a specified number of hours for advanced training on the Florida Building Code approved by the Florida Building commission.

**Section 47** of the bill amends s. 481.219, F.S., to delete the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

Architects who act as qualifying agents must inform the DBPR of any change in their relationship with the qualified business, and if that qualifying agent is the business' only qualifying agent, the business has 60 days to obtain a replacement qualifying architect. If a business does not have a qualifying agent, it may not engage in the practice of architecture, unless the executive director or chair of the Board of Architecture authorizes another registered architect or interior designer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

Regarding interior designers, the current law provision in s. 481.219(7), F.S., which provides that an interior designer who signs and seals the interior design drawings, plans, or specifications is liable for professional services performed, is not amended by the bill to remove the statutory liability.

**Section 48** of the bill amends ss. 481.221, F.S., to revise the requirements relating to seals used by architects and interior designers.

The bill amends s. 481.221(1) and (3), F.S., to remove the provisions authorizing the board to adopt by rule the seals used by a registered architect or interior designer.

The bill amends s. 481.221(10), F.S., to require each business organization to include the license number of the registered architect who serves as the qualifying agent for that business organization in any newspaper, telephone directory, or other advertising medium used by the business organization. The bill does not require that a registered interior designer include his or her license number in such advertisements for a business organization.

The bill retains the requirement in current law that an architect must include his or her license number in in any newspaper, telephone directory, or other advertising medium used by the architect. The bill removes the requirement in current law for a registered interior designer to include his or her license number in such advertisements.

The bill also amends ss. 481.221(11) and (12), F.S., which require a registered architect or an interior designer to surrender his or her seal when a registration is revoked or suspended, and to prohibit an architect or interior designer from signing and sealing any final plan, specification, or report after his or her certificate of registration is suspended or revoked. The bill removes interior designers from the requirements and prohibitions in these subsections.

**Section 50** amends s. 481.2251, F.S., to revise the requirements for disciplinary proceedings against registered interior designers. The bill replaces the term “license” with the term “register.” In place of suspension or revocation of a license, the bill authorizes the board to 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, including:

- Failing to report to the board that a person is violating any I of ch. 481, F.S., or rule of the board, or an order of the board;
- Failing to perform a statutory or legal obligation; and
- Accepting compensation from someone other than a client without full disclosure to the client.

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.

**Section 51** of the bill amends s. 481.229(6), F.S., to repeal the exemption from the application of part I of ch. 481, F.S., for persons who perform interior design services or interior decorator services for residential applications.

**Section 71** of the bill amends s. 558.002, F.S., to replace the reference to a licensed interior designer with the term “registered interior designer” in the definition of the term “design professional” under ch. 558, F.S., for resolving construction defects.

## Landscape Architecture Business Organization

### *Present Situation*

Part II of ch. 481, F.S., governs the licensing and regulation of landscape architects and related business organizations in Florida. The Board of Landscape Architecture, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.

A person may not knowingly practice landscape architecture<sup>124</sup> unless the person holds a valid license issued pursuant to part II of ch. 481, F.S.<sup>125</sup> A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, are registered landscape architects;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership are registered landscape architects; and
- The corporation or partnership has been issued a certificate of authorization by the board.<sup>126</sup>

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, or have 6 years of practical experience, with some credit available for education credits;<sup>127</sup>
- Pass the nationally recognized Landscape Architecture Registration Examination (LARE);<sup>128</sup> and
- Have 2 year of practical experience, not including any experience used to qualify to take the examination.<sup>129</sup>

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they:<sup>130</sup>

- Have graduated from an approved program or have 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 Florida at the time the license was issued.

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<sup>124</sup> The term "landscape architecture" includes but is not limited to the determination of building settings, drainage, and contouring of land and water forms, and other activities including design in connection with land development for the preservation, conservation, enhancement, or determination of proper land uses, natural features, or naturalistic and aesthetic values. See s. 481.303(6)(a)-(d), F.S., relating to the professional services included in landscape architecture.

<sup>125</sup> Section 481.323(1)(a), F.S.

<sup>126</sup> Section 481.319(1), F.S.

<sup>127</sup> Section 481.309(1)(b), F.S.

<sup>128</sup> Fla. Admin. Code R. 61G10-11.001 (2019).

<sup>129</sup> Section 481.310, F.S.

<sup>130</sup> Section 481.311(3), F.S.

If an applicant for a license by endorsement has been licensed for at least 5 years in another jurisdiction without disciplinary history, the additional year of practical experience is not required.<sup>131</sup>

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$200, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.<sup>132</sup> A business entity has no regulatory obligations other than to obtain licensure and notify the DBPR within one month of any change in the information contained in its license application.<sup>133</sup>

### *Effect of Proposed Changes*

**Sections 53 through 59** of the bill amend part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that landscape architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

The bill repeals the DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation or partnership offering landscape architectural services. Further, the bill repeals the Board of Landscape Architecture's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of part II of ch. 481, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, and all of the personnel of the business organization who act on its behalf as landscape architects are registered landscape architects; and
- One or more of the officers, directors, or owners of the corporation, or one or more of the partners of the partnership are registered landscape architects.

Under the bill, landscape architects who qualify as a business organization must inform the DBPR within one month after any change in the information in the license application for the qualified business. All landscape architects must notify the DBPR of termination of employment with a licensed business organization within one month after the termination.

**Section 54** of the bill amends s. 481.310, F.S., to provide that an applicant who holds a master's degree in landscape architecture and a bachelor's degree in a related field does not have to demonstrate 1 year of practical experience in landscape architecture to qualify for licensure.

**Section 55** of the bill amends s. 481.311(3), F.S., to provide that a person is eligible for a license by endorsement if they hold a valid license to practice landscape architecture in another state or territory of the United States.

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<sup>131</sup> Fla. Admin. Code R. 61G10-11.004(2)(e) (2019).

<sup>132</sup> See Fla. Admin. Code R. 61G10-12.002 (2019).

<sup>133</sup> See s. 481.319(4), F.S.

The bill removes the requirements for licensure by endorsement requiring the applicant to have:

- Been licensed in the other jurisdiction for at least 10 years; and
- Passed a licensing examination which is substantially equivalent to the examination required in Florida.

**Section 56** amends s. 481.317(2), F.S., to delete the provision allowing the issuance of a temporary certificate of authorization.

**Section 57** of the bill deletes s. 481.319(5), F.S., which provides that disciplinary action against a corporation or partnership is to be administered similar to disciplinary action against a registered landscape architect. Under current law, practicing landscape architecture through a corporation or partnership does not relieve a landscape architect from personal liability for professional acts, unless otherwise agreed by contract.<sup>134</sup>

## Construction Contractors

### *Present Situation*

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

In order to become a construction contractor, an applicant for a license by examination must:<sup>135</sup>

- Be of good moral character;
- Be at least 18 years of age;
- Successfully pass the certification examination; and
- 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.

If an applicant wishes to use test scores from a previous examination to qualify for another license type, the examination score used must be from a portion of the examination taken within 4 years from the date of the most recently passed portion of the examination.<sup>136</sup>

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 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.<sup>137</sup>

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

<sup>134</sup> See s. 481.319(6), F.S., and s. 558.0035, F.S.

<sup>135</sup> Sections 489.111(2)(c)1. through 3., F.S.

<sup>136</sup> Fla. Admin. Code R. 61G4-16.005 (2019).

<sup>137</sup> Section 489.115(3), F.S.



exception.” The “handyman exception” was enacted in 1979, and the contractual amount to fit within the exception has not been updated since.<sup>138</sup>

### *Effect of Proposed Changes*

**Section 60** amends s. 489.103(9), F.S., to increase the maximum contract<sup>139</sup> price for the “handyman exception” from \$1,000 to \$2,500.

**Sections 61** amends s. 489.111(2)(c), F.S., to eliminate the need for applicants to retake the examination to upgrade an existing residential, building, air conditioning, or swimming pool license if they have previously passed the required examination.

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

**Section 62** creates s. 489.115(3)(d), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- 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; and
- Complied with workers’ compensation requirements, provided proof of the financial health of their business organization, and submitted fingerprints for the required criminal background check.

The bill authorizes the Construction Industry Licensing Board to consider whether an applicant for licensure by endorsement has had licenses to practice revoked, suspended, or was otherwise acted against by the licensing authority of another state, territory, or country. Under the bill, an application for a license by endorsement must be made either when the applicant’s license in another state or territory is active or within 2 years after such license was last active.

## **Electrical Contractors**

### *Present Situation*

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

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

- 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 ECLB.<sup>140</sup>

<sup>138</sup> Section 489.103(9), F.S.

<sup>139</sup> This includes labor and materials.

<sup>140</sup> Sections 489.511(1)(a) and (b), F.S.

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education every 2 years for license renewal. 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.<sup>141</sup>

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 ECLB 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 Florida.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida's examination.<sup>142</sup>

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.<sup>143</sup>

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.<sup>144</sup>

### *Effect of Proposed Changes*

**Section 63** amends s. 489.511(5), F.S., to allow an applicant to qualify for a license by endorsement if the applicant has:

- 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; and
- Complied with workers' compensation requirements, provided proof of the financial health of their business organization, and is of good moral character.

Under the bill, an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years after such license was last active.

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<sup>141</sup> Section 489.517(4), F.S.

<sup>142</sup> Department of Business and Professional Regulation, *Certified Electrical Contractor – Endorsement*, available at: [https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT\\_DEFN\\_ID=3688](https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1023&clientCode=0801&XACT_DEFN_ID=3688) (last visited Feb. 3, 2020).

<sup>143</sup> Section 489.505(25), F.S.

<sup>144</sup> Section 489.518(1)(b), F.S.

**Section 64** amends s. 489.517, F.S., to reduce the number of hours of continuing education electrical and alarm system contractors must complete during each biennial license period from 14 hours to 11 hours. The bill also reduces the number of hours of continuing education that must be devoted to technical subjects from 7 hours to 6 hours.

**Section 65** amends s. 489.518(1)(b), F.S., to allow a burglar alarm system agent to complete their required 14 hour training course within 90 days after employment by an electrical or alarm system contractor.

## **Public Food Service Establishments**

### *Present Situation*

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.

The Division of Hotels and Restaurants within the DBPR is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

There are several exclusions from the definition of public food service establishment, including:<sup>145</sup>

- 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;
- 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;<sup>146</sup>
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items;
- Any vending machine that dispenses any food or beverage other than potentially hazardous foods;<sup>147</sup> and

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<sup>145</sup> Section 509.013(5)(b), F.S.

<sup>146</sup> Other similar food service establishments are regulated under s. 381.0072, F.S.

<sup>147</sup> Vending machines located in a facility regulated under s. 381.0072, F.S. that dispense potentially hazardous foods are also excluded from the definition.

- Any research and development test kitchen limited to the use of employees and not open to the general public.

### *Effect of Proposed Changes*

**Section 66** of the bill creates s. 509.102, F.S, to preempt the regulation of mobile food dispensing vehicles (food trucks) to the state. The bill prohibits local government from requiring a license, registration, or permit to operate a food truck. Under the bill, a local government may also not prohibit the operation of food trucks. It is not clear whether this prohibition applies to local regulation of the locations where a food truck may operate.

### **State Boxing Commission**

#### *Present Situation*

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,<sup>148</sup> and mixed martial arts<sup>149</sup> by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.<sup>150</sup>

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida<sup>151</sup> that involves a professional.<sup>152</sup> Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.<sup>153</sup> Chapter 548, F.S. does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”<sup>154</sup>

However, in regards to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.<sup>155</sup> Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.<sup>156</sup> During Fiscal Year 2018-2019, of the 137 amateur events in Florida, the Division of Regulation in the DBPR conducted 35 checks for compliance with health and safety standards and proper supervision of the events.<sup>157</sup>

<sup>148</sup> The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

<sup>149</sup> The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

<sup>150</sup> *See* s. 548.003(1), F.S.

<sup>151</sup> *See* s. 548.006(1), F.S.

<sup>152</sup> The term “professional” means a person who has “received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

<sup>153</sup> *See* s. 548.006(4), F.S.

<sup>154</sup> *See* s. 548.007(6), F.S., and *see supra* note 149 for the definition of “mixed martial arts.”

<sup>155</sup> *See* s. 548.006(3), F.S.

<sup>156</sup> Section 548.002(2), F.S.

<sup>157</sup> *See* Department of Business and Professional Regulation, *Florida State Boxing Commission Annual Report, Fiscal Year 2017-2018*, available at: [http://www.myfloridalicense.com/dbpr/os/documents/Boxing18\\_19.pdf](http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf) at p. 6. (last visited on Feb. 3, 2020).

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, or promoter.<sup>158</sup>

In Fiscal Year 2018-2019, the commission issued licenses to eight announcers and 11 timekeepers.<sup>159</sup>

### *Effect of Proposed Changes*

**Sections 67 and 68** of the bill amend ss. 548.003(2) and 548.017, F.S., respectively, to eliminate the licensure requirement for persons serving as timekeepers and announcers for a match involving a participant.

### **Florida Building Commission**

#### *Present Situation*

In 2000, the Legislature authorized implementation of the first statewide Florida Building Code (code), which replaced all local building codes.<sup>160</sup>

The Florida Building Commission (Commission) was created to implement the code. The Commission, which is housed within the 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:<sup>161</sup>

- 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;

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<sup>158</sup> The term “participant” means a professional competing in a boxing, kickboxing, or mixed martial arts match. *See* s. 548.002, F.S., for the definitions of “participant,” “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer,” “timekeeper,” “referee,” and “announcer” are not defined in ch. 548, F.S.

<sup>159</sup> *Supra*, note 156.

<sup>160</sup> Chapter 2000-141, Laws of Fla.

<sup>161</sup> Section 553.74, F.S.

- One member who is a county codes 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.<sup>162</sup>

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.<sup>163</sup> The 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.<sup>164</sup>

### *Effect of Proposed Changes*

**Section 70** of the bill amends s. 553.74, F.S., to reduce the number of members on the Commission from 27 members to 19 members. The bill:

- Requires the one architect member to be licensed pursuant to ch. 481, F.S., with at least 5 years of experience in the design and construction of buildings containing Code designated for Group E or Group I occupancies;<sup>165</sup>

<sup>162</sup> The chair is appointed by the Governor.

<sup>163</sup> Department of Business and Professional Regulation, *Florida Building Code Online*, available at: [https://www.floridabuilding.org/c/c\\_commission.aspx](https://www.floridabuilding.org/c/c_commission.aspx) (last visited on Feb. 3, 2020).

<sup>164</sup> *Id.*

<sup>165</sup> Group E occupancy relates to buildings and structures or portions thereof occupied by more than five children older than two and one-half years of age who receive educational, supervision, or personal care services for fewer than 24 hours per day, such as daycare facilities. Group I occupancy relates to the use of a building or structure, or a portion thereof, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance, e.g., hospitals, nursing homes, and foster care facilities, or in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted, e.g., correctional institutions. See Chapter 3, 2017 Florida Building Code - Building, Sixth Edition, available at: <https://up.codes/viewer/florida/fl-building-code-2017/chapter/3/use-and-occupancy-classification#308> (last visited Feb. 3, 2020).

- Allows a certified mechanical engineer as an option in place of the member who is an air-conditioning contractor or mechanical contractor member to be a mechanical engineer.
- Allows the one electrical contractor member to be an electrical contractor or an electrical engineer and includes the Florida Engineering Society in the list of groups encouraged to recommend candidates for appointment;
- Allows the one general contractor member to be a certified general contractor or a certified building contractor;
- Allows the one general contractor member to be a certified general contractor or a certified building contractor, and includes the Florida Home Builders Association in the list of associations that are encouraged to recommend a candidate for consideration as the member representing the contractor profession; and
- Requires the one member representing a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state to be compliant with, or be certified compliant with, the requirements of the Americans with Disability Act of 1990, as amended.

The bill removes the following types of members from the current membership of 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 codes enforcement official;
- One member who is a registered mechanical or electrical engineer;
- One member who is a representative of a municipality or 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.

The amendments to the composition of the Florida Building Commission in s. 553.5141, F.S., take effect January 1, 2021.

### **Other Conforming Provisions**

**Section 73** amends s. 287.055, F.S., relating to the acquisition of professional services offered by “design-build firms” to state agencies, to delete the references to certified engineering and architectural business organizations, and to reference such business organizations as qualified rather than certified.

### **Effective Date**

The bill provides an effective date of July 1, 2020, unless otherwise provided in the bill.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

The bill amends s. 481.207, F.S., to authorize the Board of Architecture and Interior Design to impose a nonrefundable fee of not more than \$75 for a certificate of registration for interior designers and for the biennial renewal of the certificate of registration. The bill addresses additional subjects related to regulation of other professions and occupations within the DBPR.

To the extent the bill imposes a fee while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, Section 19 of the Florida Constitution. Under that section, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>166</sup>

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

A fiscal analysis for CS/SB 474 was not available for the preparation of this bill analysis. According to the DBPR, SB 474 would result in a reduction of license fees, license renewal fees, and unlicensed activity fees paid by the private sector to the Division of Professions of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.<sup>167</sup>

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately \$830 annually.<sup>168</sup>

The Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and

<sup>166</sup> FLA. CONST. art. VII, s. 19(d)(1)

<sup>167</sup> See Department of Business and Professional Regulation, *SB 474, 2020 Agency Legislative Bill Analysis*, p. 13 (Nov. 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

<sup>168</sup> *Id.*



license renewal fees paid by the private sector of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.<sup>169</sup>

The DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector to the Florida State Boxing Commission of approximately \$1,450 annually.<sup>170</sup>

#### B. Private Sector Impact:

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.

The bill has a positive fiscal impact on fees paid by the private sector. Over the next three fiscal years (FY 2020-21 to FY 2022-23), the estimated reduction totals \$3,143,723 as follows:<sup>171</sup>

**Professions:** A fiscal analysis for CS/SB 474 was not available for the preparation of this bill analysis. For SB 474, a reduction of license fees, license renewal fees, and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.

The fees received from the licensure of business agents and labor organizations will be eliminated, reducing expenditures by approximately \$830 annually.<sup>172</sup>

**Condominiums:** (Yacht and Ship Brokers) A reduction of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.

**Boxing Commission:** A reduction of approximately \$1,450 annually.

Specifically, the bill:

- Eliminates license or registration costs for hair braiders, hair wrappers, body wrappers, labor organizations, and boxing timekeepers and announcers. The bill also increases from \$1,000 to \$2,500 the minimum cost of labor and materials for a construction handymen to qualify for the exemption from licensure requirements.
- Eliminates business license costs for architects and interior designers, and landscape architects.
- Eliminates the requirement that yacht and ship brokers must have a separate license for each branch office.
- Eliminates mandatory licensing costs for interior designers who provide interior design services for commercial applications.

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<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

- Reduces pre-licensure and continuing education costs for architects, barbers, cosmetologists, nail specialists, facial specialists, full specialists, and electrical and alarm contractors. The DBPR states the specific pre-licensure and continuing education cost savings to these licensees are difficult to determine, but anticipates costs to be reduced by one-third to one-half of current fees.

### C. Government Sector Impact:

A fiscal analysis for CS/SB 474 was not available for the preparation of this bill analysis. According to the DBPR, the elimination of professional licensing requirements contained in SB 474 is anticipated to reduce state government revenues by \$3,143,723 over the next three fiscal years (FY 2020-21 to FY 2022-23).<sup>173</sup> Specifically:<sup>174</sup>

- Professions: a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,195,070 in Fiscal Year 2020-21, \$569,118 in Fiscal Year 2021-22, and \$1,358,895 in Fiscal Year 2022-23.
- Regulation: the business agent and labor organization license fee reduction is anticipated to be \$830 annually.
- Boxing Commission: a revenue reduction of approximately \$1,450 annually.
- Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers): Revenue reduction of approximately \$5,400 in Fiscal Year 2020-21, \$3,000 in Fiscal Year 2021-22, and \$5,400 in Fiscal Year 2022-23.<sup>175</sup>

As a result of the revenue reduction, there will be a reduction in the 8 percent service charge to General Revenue of approximately \$96,220 in Fiscal Year 2020-21, \$45,952 in Fiscal Year 2021-22, and \$109,326 in Fiscal Year 2022-23.

The bill will result in a reduction of expenditures related to the reduced workload because of the deregulation of entities currently regulated by the DBPR in the amount of \$130,840 in FY 2020-21, \$137,140 in FY 2021-22 and \$137,340 in FY 2022-23.<sup>176</sup>

The Bureau of Education and Testing (Bureau) in the DBPR also indicates that the bill will have a minimal impact on its workload, although some examination content may require updating; such updating is a part of the Bureau's standard procedure to address statutory changes.<sup>177</sup>

## VI. Technical Deficiencies:

SB 474 amends ss. 456.072 and 456.074, F.S., and repeals s. 456.0721, F.S., to remove the authority of the DOH to take disciplinary action against a health care practitioner who is in default on a student loan guaranteed by the state or federal government. However, the bill may not remove all the DOH requirements relating to student loan default, specifically relating to

<sup>173</sup> *Id* at page 16.

<sup>174</sup> *Id*.

<sup>175</sup> See Department of Business and Professional Regulation, *SB 474, 2020 Agency Legislative Bill Analysis*, p. 14 (Nov. 4, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

<sup>176</sup> *Id*.

<sup>177</sup> *Id*.

initial award or renewal of a license. The DOH, or a licensing board within the jurisdiction of the DOH, must refuse to issue or renew a license to an individual that is currently listed on the USDHHS Office of Inspector General's List of Excluded Individuals and Entities (LEIE).<sup>178</sup> Federal law<sup>179</sup> provides that a default on a health education loan or scholarship obligation is permissive grounds for being placed on the LEIE and that such exclusion lasts until the default or obligation is resolved. If a candidate or applicant is placed on the LEIE for a default on such a loan, the DOH must deny that person's application for an initial license or renewal of an existing license.<sup>180</sup>

The bill amends s. 20.165(4)(a)(2), F.S., to change the name of the Board of Architecture and Interior Design to the Board of Architecture. However, the bill retains the current name of the Board of Architecture and Interior Design throughout part I of ch. 481, F.S.

## VII. Related Issues:

The bill creates s. 509.102, F.S. to preempt the regulation of mobile food dispensing vehicles (food trucks) to the state. The bill prevents local governments from prohibiting the operation of food trucks. It is not clear whether this prohibition applies to local regulation of the locations where a food truck may operate.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.165, 322.57, 326.004, 447.02, 447.09, 447.305, 455.213, 456.072, 456.074, 468.385, 468.603, 468.613, 468.8314, 471.015, 473.308, 474.202, 474.207, 474.217, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 477.0263, 477.0265, 477.029, 481.201, 481.203, 481.205, 481.207, 481.209, 481.213, 481.2131, 481.215, 481.217, 481.219, 481.221, 481.223, 481.2251, 481.229, 481.231, 481.303, 481.310, 481.311, 481.317, 481.319, 481.321, 481.329, 489.103, 489.111, 489.115, 489.511, 489.517, 489.518, 548.003, 548.017, 553.5141, 553.74, 558.002, 559.25, and 287.055.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 456.0721, 477.0132, and 481.2251.

This bill creates section 509.102 of the Florida Statutes.

<sup>178</sup> Section 456.0635(2)(e) and (3)(e), F.S. The LEIE provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other Federal health care programs. USDHHS, Office of Inspector General, *Exclusions FAQ*, <https://oig.hhs.gov/faqs/exclusions-faq.asp>, (last visited Feb. 3, 2019). Individuals must be excluded (placed on the LEIE) for a conviction of specified crimes, including patient abuse, fraud, or actions related to a controlled substance. Individuals may be placed on the LEIE for acts including convictions relating to audits, specified misdemeanors, claims of unnecessary services, kickbacks, or default on health education loans or scholarship obligations. 42 U.S.C. s. 1320a-7.

<sup>179</sup> Section 1128(b)(14) of the Social Security Act and 42 U.S.C. 1320a-7(b)(14).

<sup>180</sup> Florida Department of Health, *2019 Agency Analysis of SB 356* (Oct. 31, 2019).

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Innovation, Industry, and Technology of January 21, 2020:**

The committee substitute:

- Amends s. 322.57, F.S., to waive the requirement to pass the commercial driver license skills test for military service members and veterans with specified training and experience.
- Does not amend ss. 469.006 and 469.009, F.S., to revise provisions related to asbestos abatement business licenses.
- Revises the amendment to s. 477.0135, F.S., to remove persons whose occupation or practice is confined solely to makeup application from the list of persons who are exempt from license and specialty registration requirements.
- Revises the minimum training hours in s. 477.0201(1), F.S., for cosmetology specialists.
- Does not amend s. 481.205, F.S., to revise the membership of the Board of Architecture and Interior Design.
- Amends ch. 481, F.S., to provide for a voluntary certificate or registration to practice interior design in place of the current license requirement and to impose a nonrefundable fee not to exceed \$75 for a certificate of registration for interior designers and its renewal.
- Revises the qualifications for a registered interior designer, the board's authority to prescribe the form of seals, requirements related to the use of seals by registered interior designers, and applicable discipline, including fines, and disciplinary grounds for registered interior designers.
- Amends s. 489.517, F.S., to revise the minimum continuing education hours for electrical contractors.
- Creates s. 509.102, F.S. to preempt the regulation of mobile food dispensing vehicles to the state, prohibit local governments from requiring a license, registration, or permit, and prohibit local governments from prohibiting the operation of food trucks.

**B. Amendments:**

None.