

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 782

INTRODUCER: Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-Meeting</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 782 revises licensing and regulatory requirements for businesses and professions administered by the Department of Business and Professional Regulation (DBPR), including mold-related professionals, asbestos abatement professionals, electrical and alarm system contractors, certain public lodging establishments, and certain public food service establishments.

Relating to mold-related professional licensing regulations, the bill authorizes a method for persons who have held a license in another state or territory for at least 10 years to obtain a Florida license.

Relating to asbestos professional licensing regulations, the bill:

- Authorizes a method for persons who have held a license in another state for at least 10 years and meet examination and education requirements to obtain a Florida license; and
- Removes limits of bondability and credit as required criteria for determining the financial stability of an applicant for licensure.

Relating to electrical and alarm system contractors licensing, the bill removes an existing deadline for registered electrical and alarm systems contractors to seek authorization to engage in their trades throughout the state at any time.

Relating to the licensing, inspection, and regulation of public lodging establishments and public food service establishments by the Division of Hotels and Restaurants (DHR) in the DBPR which are not otherwise exempt, the bill:

- Requires licensees to establish and accurately maintain an online account with the DHR and provide an email address to the DHR as a primary contact method;

- Requires licensees and licensed agents managing a license classified as a vacation rental or timeshare project to timely submit address changes and changes in the number of houses or units covered by the license within 30 days of the change;
- Allows the DHR to serve inspection reports and other notices to operators of such establishments by email, in-person delivery, or mail;
- Allows a transient public lodging establishment guest register to be kept in an electronic format and removes the requirement for guests to sign the register;
- Authorizes a licensee to obtain a renewal license for two years rather than one year upon payment of the associated fee; and
- Removes the requirement for licensees to pay either a prorated or full fee for an initial license depending on when the application is made.

Relating to boxing matches held solely for training purposes, the bill removes a restriction on the maximum difference in weight of participants, eliminating the 12 pound weight differential for such matches in current law.

According to the DBPR, the bill has a significant negative fiscal impact to state government and may result in an indeterminate fiscal impact to local government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

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

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 11 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

¹ See Department of Business and Professional Regulation (DBPR), *2023 Agency Legislative Bill Analysis for SB 782* at 5-6 (Feb. 15, 2023) (on file with the Senate Committee on Regulated Industries).

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.² The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.³

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.”⁴ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁵ 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.”⁶ 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;
- 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.⁷

However, “neither the [DBPR] 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 desiring to engage in a profession or occupation from finding employment.⁸

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.⁹ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.¹⁰

Division of Certified Public Accounting

In Fiscal Year 2021-2022, there were 38,541 active licensees in the DBPR’s Division of Certified Public Accounting.¹¹

² Section 548.003(1), F.S.

³ See Parts I and III of ch. 450, F.S.

⁴ Section 455.01(6), F.S.

⁵ 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 of the DBPR. See s. 455.221(1), F.S.

⁶ Section 455.201(2), F.S.

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ 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 providing DBPR staff counsel. See s. 455.221(1), F.S.

¹⁰ Section 455.01(4) and (5), F.S.

¹¹ See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2021-2022*, at 10, at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 21, 2023).

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.¹²

Division of Professions

In Fiscal Year 2021-2022, in the DBPR's Division of Professions, which regulates all licensees, there were 937,960 active licensees (of which 38,541 were licensed accountants; 66,936 were licensed engineers, and 345,026 were real estate-related licensees), including:¹³

- Accountants (CPAs);
- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Engineers;
- Geologists;
- Home inspectors;
- Harbor pilots (pilot commissioners);
- Landscape architects;
- Mold-related services;
- Real estate appraisers;
- Real estate (brokers/associates)
- Talent agencies; and
- Veterinarians.

Division of Real Estate

In Fiscal Year 2021-2022, there were 345,026 active licensees in the DBPR's Division of Real Estate.¹⁴

¹² See Department of Business and Professional Regulation, *Annual Report, Division of Hotels and Restaurants*, at <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Mar. 28, 2023); see page 10 of the Annual Report summarizing the numbers of licenses issued each fiscal year to public lodging and food service establishments.

¹³ *Id.*

¹⁴ *Id.*

III. Effect of Proposed Changes:

Mold-Related Professionals

Present Situation

The Department of Business and Professional Regulation (DBPR) licenses and regulates mold-related professionals.¹⁵ Specifically, mold assessors and mold remediators are regulated by Part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program¹⁶ in the DBPR. In Fiscal Year 2021-2022, there were 5,806 active licensees, and 654 inactive licensees.¹⁷ Of 127 complaints against licensees, 26 met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in 16 cases.¹⁸

“Mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than 10 square feet.¹⁹

“Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than 10 square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under ch. 489, F.S.²⁰

In order to be licensed as a mold assessor or mold remediator, an applicant must:²¹

- Be of good moral character;
- Pass the required DBPR-approved²² examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation;
- Have the insurance required under s. 468.8421, F.S.; and
- Complete either:
 - At least a two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
 - A high school diploma or the equivalent with a minimum of four years of experience.

¹⁵ See part XIV of ch. 468, F.S., Mold-Related Services; and *Annual Report, Fiscal Year 2021-2022, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2021-2022 Annual Report) at 10, available at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 28, 2023).

¹⁶ Section 468.84, F.S.

¹⁷ See 2021-2022 Annual Report at 18.

¹⁸ *Id.* at 89.

¹⁹ Section 468.8411(3), F.S.

²⁰ Section 468.8411(5), F.S.

²¹ Section 468.8413(2), F.S.

²² Section 455.217, F.S., requires the DBPR’s Division of Professions to “provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations,” and to seek the advice of the appropriate regulatory board in doing so. The Department of Business and Professional Regulation must act together with the Division of Service Operations, the Division of Professions, and the Division of Real Estate, to “ensure that examinations adequately and reliably measure an applicant’s ability to practice the profession” that is regulated. *Id.*

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:²³

- Are of good moral character;
- Hold the insurance required under s. 468.8421, F.S.;
- Hold a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States if the criteria for such license is substantially equivalent to the licensure criteria in Florida; and
- Are qualified to take the DBPR-approved examination as set forth in s. 468.8413, F.S., and have passed a national, regional, state, or territorial licensing examination that is DBPR-approved as substantially equivalent to the required Florida examination, as set forth in s. 468.8414, F.S.

Applicants for a mold-related license must also pay initial fees of \$230.²⁴

Effect of Proposed Changes

Section 1 amends s. 468.8414, F.S., to allow licensure by endorsement to practice mold assessment or mold remediation for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory.

Applicants pursuing this avenue for licensure must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

The bill clarifies the provision relating to licensure certification examination requirements.

Asbestos Abatement

Present Situation

The DBPR also licenses and regulates asbestos consultants and asbestos contractors.²⁵ Asbestos abatement means the removal, encapsulation, enclosure, or disposal of asbestos.²⁶

An asbestos consultant may:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; and
- Prepare asbestos abatement specifications.²⁷

²³ Section 468.8414(3), (4), F.S.

²⁴ As set forth in Fla. Admin. Code R. 61-31.101, this figure includes an application fee of \$125, a licensure fee of \$100, and an unlicensed activity fee of \$5.00.

²⁵ See ch. 469, F.S., Asbestos Abatement; and *Annual Report, Fiscal Year 2021-2022, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation (2020-2021 Annual Report)* at 26, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Mar. 28, 2023).

²⁶ See s. 469.001(1), F.S.

²⁷ See s 469.003, F.S.

An asbestos contractor may work as an asbestos consultant and also conduct asbestos abatement work.²⁸

An asbestos consultant's license may only be issued to an applicant who:

- Holds a current, valid, active license as an architect issued under ch. 481, F.S.;
- Holds a current, valid, active license as a professional engineer issued under ch. 471, F.S.;
- Holds a current, valid, active license as a professional geologist issued under ch. 492, F.S.;
- Is a diplomat of the American Board of Industrial Hygiene; or
- Has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.²⁹

An applicant for licensure as either an asbestos consultant or contractor must also:³⁰

- If applying for an asbestos consultant license, complete the DBPR-approved courses in the following topics:
 - Building asbestos surveys and mechanical systems;
 - Asbestos management planning;
 - Respiratory protection; and
 - Project designer.
- If applying for an asbestos contractor license, complete courses in the following topics:
 - Asbestos contractor/supervisor; and
 - Respiratory protection.
- Provide evidence of satisfactory work on ten asbestos projects within the last five years;
- Provide evidence of financial stability; and
- Pass a DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,³¹ the DBPR must use both the applicant's credit history and limits of bondability and credit.³² There is no provision allowing or addressing licenses by endorsement for asbestos licensees of other states.

In Fiscal Year 2021-2022, there were 442 active licensees, and nine inactive licensees.³³ Of nine complaints against licensees, two met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in none of the cases.³⁴

If an individual proposes to engage in asbestos consulting or contracting as any legal entity or in a name other than the individual's legal name:

- The legal entity must apply for licensure through a qualifying agent; or
- The applicant must apply for licensure under the fictitious name.³⁵

²⁸ See s. 469.003(3), F.S.

²⁹ See s. 469.004(1), F.S.

³⁰ See s. 469.005, F.S.

³¹ The standards for determining an applicant's financial stability may be found in Fla. Admin. Code R. 61E1-4.002.

³² See s. 469.006(2)(c)2., F.S.

³³ See 2021-2022 Annual Report at 18.

³⁴ *Id.* at 87.

³⁵ See s. 469.006(2)(a), F.S.

A qualifying agent must be licensed under ch. 469, F.S., in order for a business organization to be licensed in the same category for which the qualifying agent is licensed.³⁶

Effect of Proposed Changes

Section 2 amends s. 469.004, F.S., related to licensure of asbestos consultants and asbestos contractors, to allow licensure by endorsement to practice as an asbestos consultant or asbestos contractor for an applicant who has:

- Passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan;
- Held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the application date and is applying for the same or similar license in Florida; and
- Successfully completed all required DBPR-approved courses.³⁷

Applicants for licensure by endorsement must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

Grandfathering Provision for Registered Electrical and Alarm System Contractors

Present Situation

Section 489.514, F.S., authorizes the Electrical Contractors' Licensing Board (ECLB) to grandfather certain applicants for registered contractor status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB must certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;³⁸ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years' contracting experience in the applicable trade category (with an active license and excluding probationary periods);
 - Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
 - Meeting all required insurance and financial responsibility requirements.³⁹

³⁶ See s. 469.005(3), F.S.

³⁷ All applicants must complete a respiratory protection course, with those seeking licenses as asbestos consultants completing courses in building asbestos surveys and mechanical systems, asbestos management planning, and project design, and those seeking licenses as asbestos contractors completing an asbestos contractor/supervisor course. See ss. 469.005(2) and 469.005(3), F.S.

³⁸ The Electrical Contractors' Licensing Board (ECLB) has established a \$196 fee for applications for registered contractor certification. See s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.001.

³⁹ See s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

The DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.⁴⁰

Effect of Proposed Changes

Section 3 amends s. 489.514(3), F. S., to remove the deadline for applicants with registered contractor status to seek certified licenses by November 1, 2021, allowing the ECLB to consider an application to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state at any time.

Public Lodging Establishments/Public Food Service Establishments

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida.⁴¹ A public lodging establishment includes establishments that are transient or nontransient.⁴² A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.⁴³

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or one calendar month.⁴⁴

A “public food service establishment” means:

⁴⁰ See DBPR, *2023 Agency Legislative Bill Analysis for SB 782* at 8 (Feb. 15, 2023) (on file with the Senate Regulated Industries Committee).

⁴¹ The Division of Hotels and Restaurants (DHR) also licenses and regulates elevators, escalators, and other vertical conveyance devices. See DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Mar. 28, 2023).

⁴² See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements, as defined in s. 718.103, F.S.

⁴³ *Id.* Section 509.013(11), F.S., further provides that the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

⁴⁴ *Id.*

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 term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.⁴⁵

Numerous places providing food service are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.⁴⁶

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁴⁷

Notices from the DHR pursuant to ch. 509, F.S., must be written and delivered personally by an agent of the DHR or by registered letter to the operator of the establishment, except lodging inspection reports and food service inspection reports, which may be delivered by electronic means.⁴⁸

Operators of a public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.⁴⁹ Operators of public food service establishments must also maintain a copy of the latest food service inspection report and make it available to the DHR at the time of any inspection and to the public upon request.⁵⁰

In addition, operators of transient establishments⁵¹ must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.⁵² Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.⁵³

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license

⁴⁵ See s. 509.013(5), F.S.

⁴⁶ *Id.*

⁴⁷ See ss. 509.032 and 509.035, F.S.

⁴⁸ See s. 509.091, F.S.

⁴⁹ See s. 509.101, F.S.

⁵⁰ *Id.*

⁵¹ See *supra* n. 36.

⁵² See s. 509.101, F.S.

⁵³ *Id.*

issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.⁵⁴

Licenses must be conspicuously displayed in the establishment's office or lobby, and public food service establishments offering catering services must also display their license number on all advertising for such services.⁵⁵

Section 509.251, F.S., provides the method of determining the license fees payable by establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁵⁶

For a public food service establishment, there is a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment may not exceed \$400, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁵⁷

For both public lodging establishments and public food service establishments, the full license fee must be paid if the application for initial licensure is made during the annual renewal period or more than six months before the next such renewal period, but only one-half of the fee must be paid if the application is made six months or less before such period.⁵⁸

Separate licensure is required for a public food service establishment operating in conjunction with a public lodging establishment.⁵⁹

Effect of Proposed Changes

Sections 4, 5, 6, and 7 address requirements imposed upon public lodging establishments and public food service establishments.

Section 4 amends s. 509.091, F.S., to require licensees and licensed agents to provide an email address to the DHR to serve as the primary method of contact for all communications. The bill authorizes service of the DHR's notices and inspection reports by email or regular mail, in addition to personal delivery, and removes a requirement for the use of registered mail. The bill also authorizes the DHR to post an inspection report in a conspicuous place at the establishment, when the operator refuses to accept or evades service, or the agent is unable to serve the report after due diligence.

Section 5 amends s. 509.101, F.S., to clarify the duty for operators of transient establishments to maintain a guest register in chronological order of guests that occupy rental units in the

⁵⁴ *Id.* See Fla. Admin. Code R. 61C-1.002(6).

⁵⁵ See s. 509.241(3), F.S.

⁵⁶ See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

⁵⁷ See s. 509.251(2), F.S.

⁵⁸ See ss. 509.251(1) and (2), F.S.

⁵⁹ See s. 509.251(3), F.S.

establishment. Operators must make the register available for inspection by the DHR at any time, and the requirement for guests to sign the register is removed. The bill authorizes operators to keep the register in an electronic format.

Section 6 amends s. 509.241, F.S., related to licenses held by public lodging and public food service establishments. The bill provides that initial licenses must be obtained before commencing operations. Licenses expire if not renewed before the expiration date, and the license renewal period may be for two years rather than one year, at the option of the licensee. Licensees seeking initial licenses or renewal licenses must use forms provided by the DHR. Under the bill, the DHR is granted rulemaking authority to establish procedures for license issuance and renewals. Current law limits the DHR's rulemaking authority to establishing a staggered schedule for license renewals.

Under the bill, persons who plan to open a public lodging establishment or a public food service establishment, and each licensee or licensed agent, must create and maintain a DHR online account, and provide an e-mail address to function as the primary contact for all communication from DHR. The bill provides licensees and licensed agents are responsible for maintaining accurate contact information on file with the DHR. A licensee or licensed agent managing a license classified as a vacation rental or timeshare project (as those terms are defined in s. 509.242(1)(c) and (g), F.S., respectively), must submit any change in the street or unit address or number of houses or units included under the license within 30 days of the change. All changes must be filed with the DHR through the mandatory online account.

Section 7 amends s. 509.251, F.S., relating to license fees. As to public lodging establishments, the bill provides that license renewal fees be based on the number of rental units in the establishment and whether the renewal period is for one or two years; such fee may not exceed \$1,000 for a one-year renewal license or \$2,000 for a two-year renewal license.

As to public food service establishments, the bill provides that fees for initial licenses and renewal licenses be based on the classification of the license, and for renewal licenses, fees must also be based on whether the renewal period is for one or two years. Aggregate fees (a base fee and additional fees based on seating capacity and services offered) per establishment may not exceed \$400 for a one-year license or \$800 for a two-year license.

The bill removes the requirement for a public lodging or food service establishment to pay either a prorated or full fee for an initial license depending on when the application is made.

The bill makes technical and conforming changes.

Florida Athletic Commission (formerly State Boxing Commission)

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁶⁰

⁶⁰ 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.

and mixed martial arts⁶¹ by the Florida Athletic Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁶²

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁶³ which involves a professional.⁶⁴ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁶⁵ 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.”⁶⁶

However, as 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.⁶⁷ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶⁸ During Fiscal Year 2021-2021, there were 131 sanctioned professional events and 146 amateur events.⁶⁹

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. Section 548.017, F.S., requires licensing for a participant,⁷⁰ manager, trainer, second, referee, judge, physician, matchmaker, or promoter.⁷¹

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁷²

⁶¹ 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.

⁶² Section 548.003(1), F.S.

⁶³ Section 548.006(1), F.S.

⁶⁴ 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.

⁶⁵ Section 548.006(4), F.S.

⁶⁶ Section 548.007(6), F.S., and *supra* n. 41 for the definition of “mixed martial arts.”

⁶⁷ Section 548.006(3), F.S.

⁶⁸ Section 548.002(2), F.S.

⁶⁹ *See* DBPR, *Florida Athletic Commission Annual Report, Fiscal Year 2021-2022*, at 3 (at 2 in printed report), available at <http://www.myfloridalicense.com/dbpr/os/documents/Boxing19-20.pdf> (last visited Mar. 28, 2023).

⁷⁰ Section 548.002(17), F.S., defines “participant” as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁷¹ *See* s. 548.002, F.S., for the definitions of “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer” and “referee,” are not defined in ch. 548, F.S.

⁷² Section 548.043(3), F.S.

Effect of Proposed Changes

Section 8 amends s. 548.043, F.S., to remove a restriction requiring that the weight differential between participants in a boxing match held solely for training purposes not exceed 12 pounds. According to the DBPR, this change will provide greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.⁷³

Re-enactment related to License Fees and License Renewal*Present Situation*

Under s. 509.102, F.S., the regulation of mobile food dispensing vehicles⁷⁴ involving licensing, registration, permitting, and fees, is preempted to the state, although local governments may regulate operation of such vehicles in other respects.

Effect of Proposed Changes

Section 11 re-enacts s. 509.102, F.S., relating to mobile food dispensing vehicles, for the purpose of incorporating the amendment to s. 509.251, F.S., relating to license fees for public lodging establishments and food service establishments.

Effective Date

The bill is effective July 1, 2023.

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 does not increase fees for public lodging establishments or public food service establishments. It allows the licensees to pay for either one or two years at the same annual rate.

⁷³ See DBPR, *2023 Agency Legislative Bill Analysis for SB 782* at 4 (Feb. 15, 2023) (on file with the Senate Regulated Industries Committee).

⁷⁴ Section 509.102(1), F.S., defines the term “mobile food dispensing vehicle” as “any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.”

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Division of Hotels and Restaurants (DHR) in the Department of Business and Professional Regulation (DBPR) indicates the bill will reduce license fees, as follows:⁷⁵

The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.4 million in Fiscal Year 2023-2024. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.

Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.

	FY23-24	FY24-25	FY25-26
Total Div. Revenue	\$42,647,797	\$43,947,207	\$45,286,207
Bill Difference	(\$1,413,484)	(\$1,453,723)	(\$1,495,108)
Revenue with bill implemented	\$41,234,314	\$42,493,484	\$43,791,100
% Change	-3.31%	-3.31%	-3.30%

The figures are derived from a projected 3.05% growth rate in Division Revenue and a projected 2.85% growth rate in Food & Lodging License fees.

The anticipated decrease in license fees resulting from 2 year license renewals is unknown, as it would depend on how many operators opted for a 2 year renewal and the amount of the renewal fee.

⁷⁵ See DBPR, 2023 Agency Legislative Bill Analysis for SB 782 at 6 (Feb. 14, 2023) (on file with the Senate Regulated Industries Committee).

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision. The DBPR noted that there will be reduced costs to licensees who will no longer have to maintain registrations in multiple jurisdictions.⁷⁶

C. Government Sector Impact:

The DBPR expects the following fiscal impacts on revenues:⁷⁷

Division of Hotels and Restaurants

The DBPR's internal projections for Fiscal Year 2023-2024 indicate the bill would reduce the DHR's license revenues in the Hotel and Restaurant Trust Fund by approximately \$1,414,484, or about six percent. These figures assume a 3.05 percent annual growth rate in DHR license revenue, and a projected 2.85 percent growth rate in Food & Lodging license fees.⁷⁸

Under the current license fee structure, about 58 percent of new applicants pay an initial license fee for some fraction of time and then pay the DHR again to renew their license within the same fiscal year.

Under the bill, the DHR will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license, stating that "the initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true "annual license" from the start with no same fiscal year renewals."⁷⁹

The DHR states it cannot predict the number of licensees who will seek license renewals for two years, so it is unknown how the two-year option would affect revenue.⁸⁰

About the revisions to the license, issuance, renewal, and fee provisions, the DHR notes:⁸¹

The benefits of this are two-fold: first, it simplifies the division's licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division's licensees by reducing the costs of the license over twelve months and decreasing the number of application delays (incorrect fees are one of the common issues that prevent approval of applications),

⁷⁶ *Id.* at 7.

⁷⁷ *Id.* at 6-7.

⁷⁸ *Id.* at 6.

⁷⁹ *Id.* at 6.

⁸⁰ *Id.*

⁸¹ *Id.* at 9-10.

thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

The division’s intent is that the new 365 day license provisions would only apply to new license applications received and approved after the effective date of this bill. The bill is not retroactive, thus, existing licenses will continue to retain their current renewal/expiration dates. However, existing licenses will be able to utilize the new 2 year license renewal option. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

The DHR also anticipates a reduction in the eight percent service charge to General Revenue due to reduced license fees and a possible reduction in postage expenditures.⁸² Due to the reduction of licensing revenue, the amount transferred to the General Revenue Fund for the eight percent service charge from the Hotel and Restaurant Trust Fund would be reduced by approximately \$339,000 over three fiscal years.⁸³ The DHR also anticipates a reduction of expenditures for postage and bank fees due to the reduction in license renewals.⁸⁴

	FY 2023-24	FY 2024-25	FY 2025-26
Reduction in 8% Service Charge to General Revenue	\$113,079	\$116,262	\$119,609
Cost Savings on Postage and Bank Fees	\$22,028	\$22,028	\$22,028

Division of Professions

As to electrical and alarm system license revenue, the Division of Professions of the DBPR indicates revenue from license fees for licensees using the grandfathering provision to seek statewide licensing is indeterminate as it is unknown how many eligible licensees will apply, but estimates a maximum potential grandfathering fee revenue of \$399,056 over the next three fiscal years.⁸⁵

The Division of Professions notes there are 2,036 registered licensees with current or inactive licenses who may seek statewide licensing using the grandfathering provision; only 766 applications were received during the last grandfathering period of July 1, 2019, to November 1, 2021.⁸⁶ Local governments could experience a decrease in fees from registered electrical and alarm system contractors who seek statewide licensing using the grandfathering provision, but the impact is indeterminate.⁸⁷

⁸² *Id.* at 9.
⁸³ *Id.*
⁸⁴ *Id.*
⁸⁵ *Id.* at 6.
⁸⁶ *Id.* at 8.
⁸⁷ *Id.* at 5.

The chart below shows the projected impact of the bill.⁸⁸

	FY 2023-24	FY 2024-25	FY 2025-26
Estimated H&R License Fee Revenue Under Current Licensing System	\$28,166,605	\$28,968,456	\$29,793,133
Estimated H&R License Fee Revenue Under Proposed Change	\$26,753,122	\$27,514,733	\$28,298,026
Reduction in Revenue	(\$1,413,484)	(\$1,453,723)	(\$1,495,108)
Reduction in 8% Service Charge	(\$113,079)	(\$116,262)	(\$119,609)
Estimated Postage and Bank Fee Savings	\$22,028	\$22,028	\$22,028

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.8414, 469.004, 489.514, 509.091, 509.101, 509.241, 509.251, and 548.043.

This bill re-enacts section 509.102 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁸⁸ *Id.*