

Tab 1	SB 662 by Young (CO-INTRODUCERS) Latvala, Brandes, Baxley, Benacquisto ; (Identical to H 00651) Cigarette Tax Collection Trust Fund
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Tab 2	SB 802 by Passidomo ; (Compare to H 07047) Regulated Professions and Occupations
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Tab 3	SB 818 by Hutson ; (Similar to H 00829) Timeshares
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Wednesday, March 8, 2017

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Perry, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 662 Young (Identical H 651)	Cigarette Tax Collection Trust Fund; Revising, for a specified timeframe, the amount of the net collections of the cigarette tax collected by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation which is to be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute for certain purposes, etc. RI 03/08/2017 Favorable AHS AP	Favorable Yeas 9 Nays 0
2	SB 802 Passidomo (Compare H 7047, S 1396)	Regulated Professions and Occupations; Requiring an individual applicant to apply for licensure in the name of the business organization that he or she proposes to operate under; requiring that a license be in the name of a qualifying agent rather than the name of a business organization; prohibiting a business organization from engaging in certain practices until it is qualified by a qualifying agent; requiring the board to certify an applicant to qualify one or more business organizations or to operate using a fictitious name under certain circumstances, etc. RI 03/08/2017 Favorable JU RC	Favorable Yeas 7 Nays 2
3	SB 818 Hutson (Similar H 829)	Timeshares; Revising the definition of the term "interestholder" to clarify that the term does not include certain parties to a certain multisite timeshare plan; revising requirements for the termination of a timeshare plan; specifying the percentage of votes required to extend the term of a timeshare plan under certain circumstances, etc. RI 03/08/2017 Fav/CS JU RC	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

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 662

INTRODUCER: Senator Young and others

SUBJECT: Cigarette Tax Collection Trust Fund

DATE: March 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 662 amends the amount of the annual distribution to the H. Lee Moffitt Cancer Center and Research Institute (Moffitt Center) from the Cigarette Tax Collection Trust Fund. The bill increases the current distribution, 4.04 percent of net cigarette tax collections, to 6.13 percent of net cigarette tax collections. The increase is effective from July 1, 2017 through June 30, 2053.

The bill increases the minimum annual distribution under current law for the Moffitt Center from net cigarette tax collections. Current law provides the total distribution to the Moffitt Center in a fiscal year may not be less than the amount that would have been paid to it in Fiscal Year 2001-2002, if the method of calculation and the percentage applicable in the current fiscal year had been in place and applied to net cigarette tax collections in Fiscal Year 2001-2002.

According to the Revenue Estimating Impact Conference, the bill will increase the amount distributed to the Moffitt Center by \$8.1 million and will reduce revenues transferred to the General Revenue Fund by a corresponding amount, each fiscal year.

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

II. Present Situation:

The H. Lee Moffitt Cancer Center and Research Institute

Section 1004.43, F.S., establishes the Moffitt Center at the University of South Florida (USF). The Moffitt Center is governed and operated by a not-for-profit corporation acting as an instrumentality of the state in accordance with an lease agreement with the Board of Governors of the State University System, which authorizes use of facilities on the USF campus.¹ A board of directors manages the corporation, and a chief executive officer, who serves at the pleasure of the board of directors, administers the Moffitt Center.²

¹ See s. 1004.43(1), F.S.

² See s. 1004.43(5), F.S.

The Moffitt Center is a statewide resource for basic and clinical research and multidisciplinary approaches to patient care whose sole mission is contributing to the prevention and cure of cancer.³ In 1999, the Moffitt Affiliate Network was established to further enhance the Moffitt Center's abilities to serve Florida communities by providing tertiary⁴ care, clinical trials, medical education, and community education and screening. The affiliate network consists of 14 Florida hospitals, plus one hospital in Georgia and one in Pennsylvania. The network also includes more than 400 community oncologists.⁵

The Moffitt Center is the only cancer research facility headquartered in Florida that is designated as a Comprehensive Cancer Center by the National Cancer Institute (NCI).⁶ The Mayo Clinic, which has a presence in (Jacksonville) Florida, Arizona, and Minnesota, is also designated by the NCI as a Comprehensive Cancer Center in Minnesota.⁷ According to the NCI, "the NCI-designated Cancer Centers are one of the anchors of the nation's cancer research effort."⁸

Cigarette Tax Revenues

Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20, F.S., provides for the payment of monthly distributions as follows:

From the total amount of cigarette tax collections:⁹

- 8.0 percent service charge to the General Revenue Fund;¹⁰ and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund.

From the remaining net collections:¹¹

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the Moffitt Center;¹² and

³ See <https://moffitt.org/> (last visited Mar 6, 2017). See Moffitt Cancer Center, Affiliate Hospitals, at <http://www.moffitt.org/Site.aspx?spid=5CE54FA5D8EE4D27A5BD6C496C99028D> (last visited Mar 6, 2017).

⁴ The term "tertiary care" is defined as "highly specialized medical care usually over an extended period of time that involves advanced and complex procedures and treatments performed by medical specialists in state-of-the-art facilities." See <https://www.merriam-webster.com/dictionary/tertiary%20care> (last visited Mar 6, 2017).

⁵ See Moffitt Cancer Center, Affiliate Hospitals, at <http://www.moffitt.org/Site.aspx?spid=5CE54FA5D8EE4D27A5BD6C496C99028D> (last visited Mar 6, 2017).

⁶ See <https://www.moffitt.org/about-moffitt/frequently-asked-questions/> (last visited Mar 6, 2017).

⁷ See <https://www.cancer.gov/research/nci-role/cancer-centers/find/mayoclinic> (last visited Mar 6, 2017).

⁸ See National Institutes of Health, National Cancer Institute, Office of Cancer Centers., at <https://www.cancer.gov/research/nci-role/cancer-centers> (last visited Mar 6, 2017).

⁹ See s. 210.20(2)(a), F.S.

¹⁰ See s. 215.20(1), F.S. concerning the appropriation of the 8 percent service charge to the General Revenue Fund.

¹¹ See s. 210.20(2)(a), F.S.

¹² See s. 210.20(2)(b), F.S. The distribution of cigarette tax funds to the Moffitt Center was initiated in 1998, using 2.59 percent for the calculation on net cigarette tax collections. See ch. 98-286, Laws of Fla. The last adjustment to the percentage for the calculation occurred in 2014, when the percentage was set at the current 4.04 percent from July 1, 2014 through June 30, 2017. See s. 8 of ch. 2014-38., Laws of Fla.

- 1.0 percent to the Biomedical Research Trust Fund in the Department of Health.¹³

After the above distributions are made, the remaining balance of net cigarette tax collections is deposited in the General Revenue Fund.¹⁴

Section 210.20, F.S., further provides that the distribution to the Moffitt Center each fiscal year, beginning in Fiscal Year 2004-2005 and thereafter, may not be less than the amount that would have been paid to it in Fiscal Year 2001-2002, if the method of calculation and the percentage amount applicable in the current fiscal year had been in place and applied to net cigarette tax collections in Fiscal Year 2001-2002.¹⁵

Use of Cigarette Tax Funds by the Moffitt Center

Section 210.20(b), F.S., which provides for the current 4.04 percent distribution to the Moffitt Center, specifies that the funds are to be used for:

- Constructing, furnishing, equipping, financing, operating, and maintaining cancer research and clinical and related facilities (facilities);
- Furnishing, equipping, operating, and maintaining other property owned or leased by the Moffitt Center (properties); and
- Paying costs incurred related to the purchasing, financing, operating, and maintaining all such equipment, facilities, and properties.

III. Effect of Proposed Changes:

Section 1 amends s. 210.20,(2)(b), F.S., to increase the current monthly distribution of 4.04 percent of the net cigarette tax collections payable to the Moffitt Center to 6.13 percent of net cigarette tax collections. The increase is effective from July 1, 2017 through June 30, 2053.

The calculation of the distribution to the Moffitt Center is based on the amount of cigarette taxes collected pursuant to s. 210.02, F.S., less these required deductions:

- 8.0 percent for the service charge required by s. 215.20, F.S., and paid to the General Revenue Fund; and
- 0.9 percent of the amount collected which is paid to the Alcoholic Beverage and Tobacco Trust Fund.¹⁶

The bill retains the procedure in current law that requires the division to certify monthly to the Chief Financial Officer (CFO) the amount to be paid to the Board of Directors of the Moffitt Center by warrant drawn by the CFO.

¹³ Pursuant to s. 210.20(2)(c), F.S. these funds (constituting 1.0 percent of net collections) are appropriated in an amount up to \$3 million annually during the period of July 1, 2013 to June 30, 2033, to the Department of Health and the Sanford-Burnham Medical Research Institute for the purpose of those entities working to establish activities and grant opportunities relating to biomedical research.

¹⁴ See s. 210.20(b), F.S.

¹⁵ The DBPR estimates that, based on Fiscal Year 2001-2002 revenue data and the currently applicable percentage of 4.04 percent for the distribution calculation, the distribution to the Moffitt Center must be at least \$15,524,023 annually. See *2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation)* for SB 662, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

¹⁶ See s. 210.20(2)(b), F.S.

The bill makes technical changes to conform to bill drafting conventions.

Section 2 of the bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 662 increases the distribution payable to the H. Lee Moffitt Cancer Center and Research Institute (Moffitt Center) from net cigarette tax collections by more than \$8 million annually. The increase is effective from July 1, 2017 through June 30, 2053.

C. Government Sector Impact:

SB 662 increases the minimum annual distribution under current law for the Moffitt Center from net cigarette tax collections. Current law provides the total distribution to the Moffitt Center in a fiscal year may not be less than the amount that would have been paid to it in Fiscal Year 2001-2002, if the method of calculation and the percentage applicable to the current fiscal year had been in place and applied to net cigarette tax collections in Fiscal Year 2001-2002. The Department of Business and Professional Regulation (DBPR) indicates that the current minimum net cigarette tax distribution to the Moffitt Center is \$15.5 million, based on the 4.04 percent of the net cigarette tax revenue, if that percentage had been in effect in state fiscal year 2001-2002.¹⁷

The Revenue Estimating Impact Conference estimates the increase in the percentage to be distributed to the Moffitt Center (6.13 percent rather than 4.04 percent), will increase

¹⁷ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 662, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

annual funding of the Moffitt Center by \$8.1 million, with a corresponding decrease in General Revenue.¹⁸

The Department of Financial Services indicates the bill has no impact on that department.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 210.20 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.

¹⁸ See <http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0224.pdf>, at pages 53-54 (last visited Mar. 6, 2017).

¹⁹ See *2017 Agency Legislative Bill Analysis by the Department of Financial Services* for SB 662, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries).

By Senator Young

18-00792-17

2017662__

1 A bill to be entitled
2 An act relating to the Cigarette Tax Collection Trust
3 Fund; amending s. 210.20, F.S.; revising, for a
4 specified timeframe, the amount of the net collections
5 of the cigarette tax collected by the Division of
6 Alcoholic Beverages and Tobacco of the Department of
7 Business and Professional Regulation which is to be
8 paid to the Board of Directors of the H. Lee Moffitt
9 Cancer Center and Research Institute for certain
10 purposes; making technical changes; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (b) of subsection (2) of section
16 210.20, Florida Statutes, is amended to read:

17 210.20 Employees and assistants; distribution of funds.—

18 (2) As collections are received by the division from such
19 cigarette taxes, it shall pay the same into a trust fund in the
20 State Treasury designated "Cigarette Tax Collection Trust Fund"
21 which shall be paid and distributed as follows:

22 (b)1. Beginning July 1, 2004, and continuing through June
23 30, 2013, the division shall from month to month certify to the
24 Chief Financial Officer the amount derived from the cigarette
25 tax imposed by s. 210.02, less the service charges provided for
26 in s. 215.20 and less 0.9 percent of the amount derived from the
27 cigarette tax imposed by s. 210.02, which shall be deposited
28 into the Alcoholic Beverage and Tobacco Trust Fund, specifying
29 an amount equal to 1.47 percent of the net collections, and that
30 amount shall be paid to the Board of Directors of the H. Lee
31 Moffitt Cancer Center and Research Institute, established under
32 s. 1004.43, by warrant drawn by the Chief Financial Officer.

18-00792-17

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33 2. Beginning July 1, 2014, and continuing through June 30,
34 2017 ~~2033~~, the division shall from month to month certify to the
35 Chief Financial Officer the amount derived from the cigarette
36 tax imposed by s. 210.02, less the service charges provided for
37 in s. 215.20 and less 0.9 percent of the amount derived from the
38 cigarette tax imposed by s. 210.02, which shall be deposited
39 into the Alcoholic Beverage and Tobacco Trust Fund, specifying
40 an amount equal to 4.04 percent of the net collections, and that
41 amount shall be paid to the Board of Directors of the H. Lee
42 Moffitt Cancer Center and Research Institute, established under
43 s. 1004.43, by warrant drawn by the Chief Financial Officer.

44 3. Beginning July 1, 2017, and continuing through June 30,
45 2053, the division shall from month to month certify to the
46 Chief Financial Officer the amount derived from the cigarette
47 tax imposed by s. 210.02, less the service charges provided for
48 in s. 215.20 and less 0.9 percent of the amount derived from the
49 cigarette tax imposed by s. 210.02, which shall be deposited
50 into the Alcoholic Beverage and Tobacco Trust Fund, specifying
51 an amount equal to 6.13 percent of the net collections, and that
52 amount shall be paid to the Board of Directors of the H. Lee
53 Moffitt Cancer Center and Research Institute, established under
54 s. 1004.43, by warrant drawn by the Chief Financial Officer.

55
56 These funds are appropriated monthly out of the Cigarette Tax
57 Collection Trust Fund, to be used for lawful purposes, including
58 constructing, furnishing, equipping, financing, operating, and
59 maintaining cancer research and clinical and related facilities;
60 furnishing, equipping, operating, and maintaining other
61 properties owned or leased by the H. Lee Moffitt Cancer Center

18-00792-17

2017662__

62 and Research Institute; and paying costs incurred in connection
63 with purchasing, financing, operating, and maintaining such
64 equipment, facilities, and properties. In fiscal years 2004-2005
65 and thereafter, the appropriation to the H. Lee Moffitt Cancer
66 Center and Research Institute authorized by this paragraph may
67 ~~subparagraph shall~~ not be less than the amount that would have
68 been paid to the H. Lee Moffitt Cancer Center and Research
69 Institute in fiscal year 2001-2002, had this paragraph
70 ~~subparagraph~~ been in effect.

71 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

SB 662, by Young

Bill Number (if applicable)

Topic Moffitt Cancer Center

Amendment Barcode (if applicable)

Name H Lee Moffitt

Job Title Attorney

Address 3327 NW Perimeter Road

Phone 813 760-5712

Street

Palm City

FL

33629

Email lee.moffitt@moffitt.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Moffitt Cancer Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/16

Meeting Date

6662
651

Bill Number (if applicable)

Topic Cigarette Tax

Amendment Barcode (if applicable)

Name Jamie Wilson

Job Title V.P. of Government Relations

Address 12902 Magnolia Dr.

Phone 813-240-3454

Tampa FL 33612

City

State

Zip

Email Jamie.Wilson@

moffitt.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Moffitt Cancer Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



SENATOR DANA YOUNG
18th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 28, 2017

Senator Travis Hutson, Chair
Regulated Industries Committee
330 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Hutson,

My Senate Bill 662, Cigarette Tax Collection Trust Fund has been referred to the Regulated Industries Committee. As a member of the Committee, I respectfully request that this bill be placed on the next available agenda.

If I may provide any additional information, please do not hesitate to contact me.

Sincerely,

Dana Young
State Senator – 18th District

DY:mfh

cc: Ross McSwain, Staff Director – Regulated Industries Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 802

INTRODUCER: Senator Passidomo

SUBJECT: Regulated Professions and Occupations

DATE: March 9, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 802 addresses licensing, registration, and regulatory requirements for various professions and occupations. The bill:

- Eliminates the current licensure required for business entities engaged in certain regulated professions, while retaining licensure for the individuals engaged in those professions (architects, interior designers, landscape architects, professional geologists, and asbestos abatement consultants and contractors).
- Modifies talent agency regulation and eliminates licensure requirements for talent agents and talent agencies.
- Allows certain activities to be practiced without licensure, including auctioneering and certain boxing match services (announcers and knockdown timekeepers).
- Eliminates the Auctioneer Recovery Fund for payment of certain losses caused by auctioneer licensees.
- Establishes regulations for restricted barbering, and nail and facial services.
- Reduces the number of training hours requirement to be eligible to take the licensure examination to be a barber.
- Provides requirements for specialists in practices defined as “nail specialty,” “facial specialty,” and “full specialty.”
- Eliminates licensure and registration requirements for those who engage solely in hair braiding, hair wrapping, or body wrapping.
- Eliminates licensure for labor organizations and for yacht and ship brokers’ branch offices.

The bill has a significant negative fiscal impact to the Department of Business and Professional Regulation and to the revenue from the General Revenue service charge. See Section V, Fiscal Impact Statement.

The bill provides for an effective date of October 1, 2017.

II. Present Situation:

Background

Section 20.165, F.S., establishes the organizational structure of the Department of Business and Professional Regulation (DBPR). The DBPR 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.

Fifteen boards and programs exist within the Division of Professions,¹ two boards are within the Division of Real Estate,² and one board exists in the Division of Certified Public Accounting.³ The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.⁴ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law pursuant to parts I and III of ch. 450, F.S.

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.”⁵

Under Florida law, regulation of professions is 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:

¹ 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.

² See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

³ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

⁴ Section 548.003(1), F.S.

⁵ Section 455.01(6), F.S.

⁶ Section 455.201(2), F.S.

- 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 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.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

In Fiscal Year 2015-2016, the Division of Accountancy had 39,216 licensees, the Division of Real Estate had 349,668 licensees, and the Board of Professional Engineers had 61,396 licensees.¹¹ In Fiscal Year 2015-2016, there were 434,001 licensees in the Division of Professions,¹² including:

- 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;
- Geologists;
- Home inspectors;
- Landscape architects;
- Harbor pilots;
- Mold-related services;

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 2015-2016*, at http://www.myfloridalicense.com/dbpr/os/documents/ProfessionsAnnualReportFY2015-2016_Final.pdf, (last visited Mar. 3, 2017) at page 21.

¹² Of the total 415,207 licensees in the Division of Professions, 23,183 are inactive. *Id.* at page 22.

- Talent agencies; and
- Veterinarians.¹³

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.¹⁴

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.¹⁵ The FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowner's Associations (jurisdiction is limited to arbitration of election and recall disputes).¹⁶

III. Effect of Proposed Changes:

For ease of reference to each of the topics addressed in SB 802, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

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 Department of Business and Professional Regulation (DBPR), processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.¹⁷

¹³ *Id.* at pages 21-22.

¹⁴ Section 455.219(1), F.S.

¹⁵ Department of Business and Professional Regulation, *Division of Florida condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html> (last visited Mar. 3, 2017).

¹⁶ *Id.*

¹⁷ See Department of Business and Professional Regulation, *Yacht and Ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/dbpr/lsc/YachtandShip.html> (last visited Mar. 3, 2017).

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.¹⁸ 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.”¹⁹

Applicants for a branch office license and renewal pay a \$100 fee; licenses must be renewed every two years.²⁰ A branch office has no regulatory obligations other than to obtain licensure. Additionally, branch offices are not subject to inspection requirements.

Effect of Proposed Changes:

Section 1 of the bill amends s. 326.004, F.S., to remove the requirement that separate branch office licenses be maintained by yacht and ship brokers, in addition to a license for the principal office. Brokers and salespeople are required to maintain individual licensure, with a principal place of business in Florida tied to the broker’s individual license.

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 licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the labor organization industry.

A labor organization is defined as “[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.”²¹

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.²² Business agents are defined as “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; and
- Soliciting or receiving from any employer any right or privilege for employees.”²³

¹⁸ Section 326.004(1), F.S.

¹⁹ Section 326.004(13), F.S.

²⁰ Rule 61B-60.002, F.A.C.

²¹ Section 447.02(1), F.S.

²² Section 447.04(2), F.S.

²³ Section 447.02(2), F.S.

Applicants for a business agent license must pay a \$25 fee for licensure and must meet a number of licensure requirements.²⁴ Labor organization applicants must pay an annual fee of \$1.²⁵

Effect of Proposed Changes:

Sections 2 through **9** of the bill amend the provisions in Part I of ch. 447, F.S., to eliminate the registration and regulation of labor organizations by the Department of Business and Professional Regulation (DBPR). 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 remain effective.

Auctioneers

Present Situation:

Section 468.385, F.S. requires that a person who auctions or offers to auction any property in Florida must be licensed by the DBPR, unless the person is exempt from licensure as provided in s. 468.385(1) through (9), F.S. A person may not be licensed as an auctioneer or apprentice if he or she is under 18 years of age, or has committed any act or offense which would constitute a basis for disciplinary action under s. 468.389, F.S., such as misrepresenting property for sale at auction, or engaging in false or deceptive advertising. A person seeking auctioneer licensure must pass a written examination testing knowledge of the laws of Florida relating to the Uniform Commercial Code that are relevant to auctions.²⁶

The Auctioneer Recovery Fund (Recovery Fund) is administered by the Florida Board of Auctioneers (Auctioneers Board) and is supported by a recovery fund surcharge of \$100 paid by each applicant for an auctioneer license.²⁷ Pursuant to s. 468.395, F.S., payments from the Recovery Fund may occur upon:

- The issuance of a final order from the Auctioneers Board directing an offending licensee to pay restitution, and a determination by the Auctioneers Board that the order cannot be enforced; or
- An aggrieved party obtaining a final judgment for which all proceedings, including appeals and supplemental proceedings to collect the judgment, have concluded, for the recovery of damages for actual loss that results from a licensed auctioneer engaging in prohibited acts²⁸ in Florida, or violating any rule of the Auctioneers Board.²⁹

²⁴ Section 447.04(2), F.S.

²⁵ Section 447.06(2), F.S.

²⁶ See s. 468.385(4), F.S.

²⁷ See s. 468.392, F.S. and http://www.myfloridalicense.com/dbpr/pro/auct/documents/auc_faqs.pdf (last visited Mar. 9, 2017), at page 4.

²⁸ Section 468.389, F.S. lists the acts that are grounds for the imposition of discipline by the Board.

²⁹ The rules of the board are published as Chapter 61G2 of the Florida Administrative Code. See Fla. Admin. Code R. CCL&-61G2 (2017), at <https://www.flrules.org/gateway/Division.asp?DivID=272> (last visited Mar. 9, 2017)

Effect of Proposed Changes:

Sections 10 through 29 of the bill eliminate regulation of auctioneers, but retain consumer protections and requirements for conducting an auction in Florida. In lieu of discipline imposed by a regulatory agency for certain acts, the bill provides that such acts are grounds for a civil cause of action for damages against the auctioneer, auction business, or any owner or manager thereof, or any substantial stockholder of a corporation owning the auction business.

The bill repeals ss. 468.392 through 468.399, F.S., and eliminates the Auctioneer Recovery Fund.

Talent Agencies***Present Situation:***

Chapter 468, Part VII, F.S., governs the licensing and regulation of talent agencies in the state. The Division of Professions within the DBPR oversees the licensing and regulation of talent agencies. The Division of Professions processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the talent agency industry.

Individuals are prohibited from owning, operating, soliciting business, or otherwise engaging in or carrying on the occupation of a talent agency in this state unless the person first obtains licensure for the talent agency.³⁰ A talent agency is defined as “[a]ny person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist.”³¹

To qualify for a talent agency license, the applicant must be of good moral character and must show whether the agency, any person, or any owner of the agency is financially interested in any other business of like nature, and if so, must specify the interests.³²

At the time of application, applicants for a talent agency license must pay an application fee of \$300, an unlicensed activity fee of \$5, and an initial licensure fee of \$200 if licensed after March 31 of any odd numbered year. Otherwise the initial license fee is \$400. Talent agency licensees must pay a biennial renewal fee of \$400.³³

Licensed talent agencies are required to:

- File an itemized schedule of maximum fees, charges, and commissions it intends to charge and collect for its services;³⁴
- Pay to the artist all money collected from an employer for the benefit of an artist within five business days after receipt of the money;³⁵

³⁰ Section 468.403(1), F.S.

³¹ Section 468.401, F.S.

³² Section 468.405, F.S.

³³ Rule 61-19.005, F.A.C.

³⁴ Section 468.406(1), F.S.

³⁵ Section 468.406(2), F.S.

- Display a copy of the license conspicuously in the place of business;³⁶
- File a bond with the DBPR in the form of a surety for the penal sum of \$5,000, which may be drawn upon if a person is aggrieved by the misconduct of the talent agency;³⁷
- Maintain records including the application, registration, or contract of each artist, with additional information;³⁸
- Provide a copy of the contract to the artist within 24 hours of the contract's execution;³⁹ and
- Comply with the prohibited acts set forth in s. 468.412, F.S.

Licensed talent agencies are prohibited from:

- Charging the artist a registration fee;⁴⁰ and
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, and advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.⁴¹

Section 468.415, F.S., provides prohibitions against sexual misconduct.

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

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

Effect of Proposed Changes:

Sections 30 through 43 of the bill amend Part VII of ch. 468, F.S., to eliminate the licensing and regulation of talent agencies by the DBPR. The bill revises the civil and criminal provisions currently provided in ch. 468, Part VII, F.S. Contract, bond, recordkeeping, and notice requirements related to talent agents are retained.

³⁶ Section 468.407(2), F.S.

³⁷ Section 468.408, F.S.

³⁸ Section 468.409, F.S.

³⁹ Section 468.410(3), F.S.

⁴⁰ Section 468.410(1), F.S.

⁴¹ Section 468.410(2), F.S.

According to the DBPR, three disciplinary orders were issued against talent agencies in recent years; two involved minor violations for failure to include the talent agency's license number in advertisements. The financial account of the licensing program has been in a perpetual deficit since the enactment of legislation authorizing talent agency licensure in 1986.⁴²

Asbestos Abatement Business Organization

Present Situation:

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement in the state. The Asbestos Licensing Unit is a program located under the Division of Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect, professional engineer, professional geologist, 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.⁴³

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.⁴⁴
A person must be a licensed asbestos consultant to:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; or
- Prepare asbestos abatement specifications.⁴⁵

If an applicant for licensure as an asbestos consultant or contractor intends to engage in consulting or contracting as a business organization, such as a corporation or other legal entity, or in any name other than the applicant's legal name, the business organization must be licensed separately as an asbestos abatement business. Each licensed business organization must have a qualifying agent who is licensed under ch. 469, F.S.,⁴⁶ is qualified to supervise the enterprise, and is financially responsible. If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination, and may not engage in the practice of asbestos abatement until it is qualified.

Applicants for an asbestos abatement business license pay an application fee of \$300, an unlicensed activity fee of \$5, an initial licensure fee of \$250, and a biennial renewal fee of \$250.⁴⁷ A branch office has no regulatory obligations other than to obtain licensure. Additionally, branch offices are not subject to inspection.

⁴² *Id.*

⁴³ See *2016 Legislative Bill Analysis for Senate Bill 1050 (2016)* by the Florida Department of Business and Professional Regulation, (Dec 16, 2015) (on file with Senate Committee on Regulated Industries), at page 2.

⁴⁴ Section 469.003(3), F.S.

⁴⁵ Section 469.003, F.S.

⁴⁶ Section 469.006, F.S.

⁴⁷ Rule 61E1-3.001, F.A.C.

Effect of Proposed Changes:

Sections 44 and 45 of the bill amend ch. 469, F.S., to remove the requirement that an asbestos abatement contractor obtain a separate business license in addition to an individual license. Asbestos abatement contractors must qualify the business organizations they supervise and are liable for the actions of those businesses. Asbestos abatement contractors must inform the DBPR of any change in their relationship with the qualified business, and a qualified business has 60 days to obtain another asbestos abatement contractor to serve as qualifying agent.

Restricted Barbering*Present Situation:*

The term “barbering” used in ss. 476.014 through 476.254, F.S, the Barbers’ Act, includes any of the following practices when done for payment by the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.⁴⁸ Licensure as a barber requires 1,200 hours of training related to sanitation, safety, and laws and rules, to be eligible to take the licensure examination to be a barber. 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 the licensure of such a person who passes the examination.⁴⁹

Effect of Proposed Changes:

Sections 46 through 48 of the bill amend ss. 476.034, 476.114, and 476.144, F.S. to define “restricted barbering” and “restricted barber;” reduce the number of hours of training required relating to sanitation, safety, and laws and rules to be eligible for by examination as a barber from 1,200 hours to 800 hours; repeal the authorization for the Barbers’ Board to establish procedures by rule to allow a barber school or program to certify a person for the licensure examination after completion of a minimum of 1,000 hours of actual school hours and licensure if such a person passes the examination; and establish the requirements to be eligible for licensure by examination as a “restricted barber.”

To be eligible to take a licensure examination to be a restricted barber, a person must have held an active valid license in another state to practice barbering for at least one year or have received a minimum of 525 hours of training relating to sanitation, safety, and laws and rules, as established by the Barbers’ Board, at a school of barbering licensed pursuant to chapter 1005, F.S., a barbering program within the public school system or a government-operated barbering program in this state. “Restricted barbering” includes the following practices when done for payment by the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, shampooing, arranging, dressing, or curling the hair or beard, including the application of shampoo, hair conditioners, shaving creams, hair tonic, and

⁴⁸ Section 476.034(2), F.S.

⁴⁹ Section 476.114(2), F.S.

hair spray to the face, scalp, or neck, either by hand or by mechanical appliances. However, the term *does not* include the application of oils, creams, lotions, or other preparations to the face, scalp, or neck.

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 wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, located within the Division of Professions, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

Individuals are prohibited from providing manicures or pedicures in Florida without first being registered as a nail specialist, full specialist, or cosmetologist.

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]”⁵⁰ 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;
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.”⁵¹

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology [].”⁵² “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.”⁵³

A nail specialist may complete manicures and pedicures. A full specialist may complete manicures, pedicures, and facials. Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.⁵⁴ All cosmetology and specialty salons are subject to inspection by the DBPR.⁵⁵

⁵⁰ Section 477.013(5), F.S.

⁵¹ Section 477.013(6), F.S.

⁵² Section 477.013(3), F.S.

⁵³ Section 477.013(4), F.S.

⁵⁴ Section 477.0263, F.S.

⁵⁵ Section 477.025, F.S.

To qualify for a specialist license, the applicant must be at least 16 years old, obtain a certificate of completion from an approved specialty education program, and submit an application for registration with the DBPR with the registration fee.⁵⁶

To qualify for a license as a cosmetologist, the applicant must be at least 16 years old, have received a high school diploma, have submitted an application with the applicable fee and examination fee, and have either a license in another state or country for at least one year, or have received 1,200 hours training including completing an education at an approved cosmetology school or program. The applicants must also pass all parts of the licensure examination.⁵⁷

The act of painting nails with fingernail polish falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails. Therefore, individuals seeking to add polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist. The DBPR does not have a separate license for polishing nails.

Effect of Proposed Changes:

Section 49 of the bill amends s. 477.013, F.S. to specify the activities that constitute the practice of a “nail specialty,” a “facial specialty,” and a “full specialty.” A nail specialty, includes:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands, including any procedure for the affixing of artificial nails, except those that are affixed solely by a simple adhesive; and
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet.

A facial specialty includes facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services. A full specialty includes all manicuring, pedicuring, and facial services.

Section 50 of the bill repeals s. 477.0132, F.S., and eliminates registration requirements for persons engaged in hair braiding, hair wrapping, and body wrapping.

Sections 51 and **52** of the bill amend ss. 477.0135 and 477.019, F.S. to eliminate licensure or registration for a person whose occupation or practice is confined solely to hair braiding, to hair wrapping, or to body wrapping, and provide those persons are exempt from certain continuing education requirements.

Section 53 of the bill amends s. 477.0201, F.S., on specialty registration, to include registrations for nail, facial, and full specialty practices, including minimum training requirements.

Section 54 of the bill deletes s. 477.026(1)(f), F.S, relating to registration fees.

⁵⁶ Section 477.0201, F.S.

⁵⁷ Section 477.019(2), F.S.

Architecture Business or Interior Design Organization

Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations in the state. The Board of Architecture and Interior Design is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

“The practice of or the offer to practice architecture or interior design by licensees through a corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of [ch. 481, Part I, F.S.].”⁵⁸ An architecture or interior design business corporation, limited liability company, or partnership, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.⁵⁹

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5.00, and a biennial renewal fee of \$125.00.⁶⁰ A business entity has no regulatory obligations other than to obtain licensure.

Effect of Proposed Changes:

Sections 55 through **58** of the bill amend ch. 481, F.S., to remove 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 and interior designers qualify their business organizations with their individual licenses. The bill provides that architects and interior designers must inform the DBPR of any change in their relationship with the qualified business, and the business has 60 days to obtain a replacement qualifying architect or interior designer. The executive director or chair of the Board of Architecture and Interior Design may authorize another registered architect or interior designer employed by the business organization to temporarily service as its qualifying agent for no more than 60 days.

The bill amends s. 481.219(2)(b), F.S., to provide that the Board of Architecture and Interior Design may deny an application to qualify a business organization, if the applicant (or others identified in the application as partners, officers, directors, or stockholders who are also officers or directors) “has been involved in past disciplinary actions or on any grounds for which an individual registration or certification may be denied.”

⁵⁸ Section 481.219(1), F.S.

⁵⁹ Section 481.219(2)-(3), F.S.

⁶⁰ Rules 61G1-17.001 and 61G1-17.002, F.A.C.

According to the DBPR, in recent years, the Board of Architecture and Interior Design disciplined licensed architecture businesses only six times in cases that did not also involve discipline against the supervising architect; generally, the licensed business was cited for operating without a supervising architect or for failure to include license numbers in advertisements.⁶¹

The Board of Architecture and Interior Design disciplined licensed interior design businesses only four times in recent years in cases that did not also involve discipline against the qualifying interior designer. In three of the four disciplinary cases, the business license was retained by the business after the qualifying interior designer had left the firm.⁶²

Landscape Architecture Business Organization

Present Situation:

Chapter 481, Part II, F.S., governs the licensing and regulation of landscape architects and related business organizations in the state. The Board of Landscape Architecture, a board located within the Division of Professions, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the landscape architecture industry.

A person may not knowingly practice landscape architecture unless the person holds a valid license issued pursuant to ch. 481, Part II, F.S.⁶³ A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect; and
- The corporation or partnership has been issued a certificate of authorization by the board.⁶⁴

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.⁶⁵ A business entity has no regulatory obligations other than to obtain licensure.

Effect of Proposed Changes:

Sections 59 through **64** of the bill amend Part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license in addition to an individual license. The bill provides that landscape architects must qualify their business organization with their individual licenses and will be liable for the actions of the business organizations they qualify.

⁶¹ *Id.* at 5.

⁶² *Id.*

⁶³ Section 481.323(1)(a), F.S.

⁶⁴ Section 481.319(1), F.S.

⁶⁵ Rule 61G10-12.002, F.A.C.

The bill repeals the DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering landscape architectural services. Further, the bill repeals the board'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 one 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 ch. 481, Part I, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, is a licensed landscape architect; and
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect.

Under the bill, landscape architects must inform the DBPR of any change in their relationship with the qualified business, and the business has one month to obtain another qualifying landscape architect. According to the DBPR, the Board of Landscape Architecture and Design issued no disciplinary orders against landscape architecture businesses during the three previous fiscal years.⁶⁶

Professional Geology

Present Situation:

Section 492.111, F.S. requires that a firm, corporation, or partnership offering geological services to the public first obtain a certification of authorization from the DBPR. No similar requirement exists for a person practicing professional geology in his own name.

Effect of Proposed Changes:

Sections 65 through 68 of the bill amend ss. 492.111, 492.104, and 492.113, F.S., to eliminate the requirement that a firm, corporation, or partnership offering geological services to the public obtain a certification of authorization.

State Boxing Commission

Present Situation:

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing, and mixed martial arts by the Florida State Boxing Commission (commission) within the DBPR.

Section 548.006(3), F.S., provides the commission with exclusive jurisdiction over every professional boxing match and professional mixed martial arts and kickboxing matches. Professional matches held in this state must meet the requirements for holding the match pursuant to ch. 548, F.S., and the rules adopted by the commission.

⁶⁶ *Id.*

The commission's jurisdiction over amateur matches is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for boxing and kickboxing matches held in the state.⁶⁷ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶⁸ This jurisdiction does not extend to amateur sanctioning organizations for mixed martial arts.

Under current law, certain persons providing certain services related to professional and amateur boxing, kickboxing, and mixed martial arts 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.⁶⁹

Effect of Proposed Changes:

Sections 69 and 70 of the bill amend s. 548.017, F.S., to eliminate the licensure requirement for persons serving as timekeepers and announcers for a match involving a participant and amend s. 548.003(2)(i), F.S., to conform to the elimination of the licensing of timekeepers by deleting a reference to a "knockdown timekeeper."

The bill provides for an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SB 802 repeals requirements for criminal history record checks for talent agents. The Department of Law Enforcement estimates an annual revenue loss of \$1,824 (approximately 76 records checks that produce \$24 each in fees payable to the state).⁷⁰

⁶⁷ Section 548.006(3), F.S.

⁶⁸ Section 548.002(2), F.S.

⁶⁹ Section 548017, F.S.

⁷⁰ See 2017 FDLE Legislative Bill Analysis for SB 662, dated Feb. 15, 2017 (on file with Senate Committee on Regulated Industries) at page 3.

B. Private Sector Impact:

SB 802 repeals requirements for criminal history record checks for talent agents, who will no longer be required to pay for and obtain such records checks.

According to the Department of Business and Professional Regulation (DBPR), the bill will result in a reduction of license fees, license renewal fees and unlicensed activity fees to the private sector of approximately \$971,003 in Fiscal Year 2017-2018, \$1,123,148 in Fiscal Year 2018-2019, and \$970,828 in Fiscal Year 2019-2020.⁷¹

The Division of Condominiums (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees to the private sector of approximately \$4,300 in Fiscal Year 2017-2018, \$4,300 in Fiscal Year 2018-2019, and \$4,300 in Fiscal Year 2019-2020.⁷²

The DBPR estimates that the bill will result in a reduction to the private sector of license and license renewal fees paid to the Florida State Boxing Commission of approximately \$1,000 in Fiscal Year 2017-2018, \$1,000 in Fiscal Year 2018-2019, and \$1,000 in Fiscal Year 2019-2020.⁷³

C. Government Sector Impact:

SB 802 eliminates requirements for several professions to obtain licenses in order to practice in the state. According to the Department of Business and Professional Regulation (DBPR), licensees will receive the benefit of fee reductions in the amounts shown below:⁷⁴

- Division of Condominiums Yacht and Ship Brokers licensees - approximately \$4,300 in Fiscal Year 2017-2018; \$4,300 in Fiscal Year 2018-2019; and \$4,300 in Fiscal Year 2019-2020.
- Division of Professions licensees - approximately \$971,003 in Fiscal Year 2017-2018; \$1,123,148 in Fiscal Year 2018-2019; and \$970,828 in Fiscal Year 2019-2020.
- State Boxing Commission licensees - approximately \$1,000 in Fiscal Year 2017-2018; \$1,000 in Fiscal Year 2018-2019; and \$1,000 in Fiscal Year 2019-2020.

The DBPR provided the following information:⁷⁵

	2017-2018	2018-2019	2019-2020
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⁷¹ *Id.* at page 9.

⁷² *Id.* at page 10.

⁷³ *Id.*

⁷⁴ *Id.* at pages 7-10.

⁷⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 802 dated Mar. 2, 2017 (on file with Senate Committee on Regulated Industries) at pages 9-10.

Revenues: License fees and Unlicensed Activity Fees	Condominiums (Yacht and Ship Brokers) (\$4,300)	Condominiums (Yacht and Ship Brokers) (\$4,300)	Condominiums (Yacht and Ship Brokers) (\$4,300)
	Professions (\$971,003)	Professions (\$1,123,148)	Professions (\$970,828)
	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)
Expenditures: Surcharge to GR (non-operating)	Condominiums (Yacht and Ship Brokers) (\$344)	Condominiums (Yacht and Ship Brokers) (\$344)	Condominiums (Yacht and Ship Brokers) (\$344)
	Professions (\$77,680)	Professions (\$89,852)	Professions (\$77,666)
	Boxing Commission (\$80)	Boxing Commission (\$80)	Boxing Commission (\$80)

In total, the revenue reduction to state government is anticipated to be \$3,080,878 over the next three fiscal years (Fiscal Year 2017-2018 to Fiscal Year 2019-2020). As a result, revenue from the General Revenue service charge will be reduced in total by \$246,470 in those fiscal years.

The DBPR notes that as of June 30, 2016, the fund balances for talent agencies , the Board of Professional Geologists and the Board of Auctioneers were negative, and that the proposed elimination of the license fees for the professions that have a deficit balance will result in the fund accounts closing with a negative balance. The DBPR indicates that funds with negative balances have “borrowed from” the funds of other boards during the years they have operated “to address the negative balances.”

The DBPR also notes:

- Although the bill repeals certain definitions relating to auctioneers, types of auctions, barbers, and the DBPR, the changes will not impact the enforceability of civil, criminal, and administrative causes of action.
- The Bureau of Education and Testing in the DBPR indicates that the proposed bill will have 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.
- The Division of Service Operations estimates that the impact of the bill on that division will be minimal and states that although there will be a slight reduction in the number of applications received by DBPR, the surge in applications in the last few years will offset any reduction resulting from the bill.⁷⁶

⁷⁶ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 326.004, 447.02, 447.09, 468.381, 468.382, 468.388, 468.389, 468.391, 468.401, 468.406, 468.408, 468.409, 468.410, 468.412, 468.413, 468.415, 469.006, 469.009, 476.034, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 481.203, 481.219, 481.221, 481.229, 481.303, 481.311, 481.317, 481.319, 481.321, 481.329, 492.111, 492.104, 492.113, 492.115, 548.003, and 548.017.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 468.384, 468.385, 468.3851, 468.3852, 468.3855, 468.386, 468.387, 468.392, 468.393, 468.394, 468.395, 468.396, 468.397, 468.398, 468.399, 468.402, 468.403, 468.404, 468.405, 468.407, 468.414, and 477.0132.

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.

By Senator Passidomo

28-00505-17

2017802__

1 A bill to be entitled
2 An act relating to regulated professions and
3 occupations; amending s. 326.004, F.S.; deleting a
4 requirement that yacht and ship brokers maintain a
5 separate license for each branch office and related
6 fees; amending s. 447.02, F.S.; deleting a definition;
7 repealing s. 447.04, F.S., relating to business
8 agents, licenses, and permits; repealing s. 447.041,
9 F.S., relating to hearings; repealing s. 447.045,
10 F.S., relating to certain confidential information;
11 repealing s. 447.06, F.S., relating to the required
12 registration of labor organizations; amending s.
13 447.09, F.S.; deleting prohibitions against specified
14 actions; repealing s. 447.12, F.S., relating to
15 registration fees; repealing s. 447.16, F.S., relating
16 to the applicability of ch. 447, F.S.; amending s.
17 468.381, F.S.; revising legislative findings and
18 intent; amending s. 468.382, F.S.; deleting
19 definitions; repealing s. 468.384, F.S., relating to
20 the Florida Board of Auctioneers; repealing s.
21 468.385, F.S., relating to required licenses,
22 qualifications, and examination to practice
23 auctioneering; repealing s. 468.3851, F.S., relating
24 to license renewals for auctioneers; repealing s.
25 468.3852, F.S., relating to reactivation of license
26 and fees; repealing s. 468.3855, F.S., relating to
27 apprenticeship training requirements; repealing s.
28 468.386, F.S., relating to fees and local licensing
29 requirements; repealing s. 468.387, F.S., relating to
30 licensing of nonresidents, endorsement, and
31 reciprocity; amending s. 468.388, F.S.; conforming
32 provisions to changes made by the act; amending s.

28-00505-17

2017802__

33 468.389, F.S.; providing for a civil cause of action,
34 rather than disciplinary proceedings, for certain
35 prohibited acts; conforming provisions to changes made
36 by the act; amending s. 468.391, F.S.; conforming
37 cross-references; repealing s. 468.392, F.S., relating
38 to the Auctioneer Recovery Fund; repealing s. 468.393,
39 F.S., relating to a license fee surcharge and
40 assessments; repealing s. 468.394, F.S., relating to
41 credited interest and payment of expenses; repealing
42 s. 468.395, F.S., relating to conditions of recovery
43 and eligibility; repealing s. 468.396, F.S., relating
44 to claims against a single licensee in excess of
45 dollar limitation, joinder of claims, payment, and
46 insufficient funds; repealing s. 468.397, F.S.,
47 relating to payment of claims; repealing s. 468.398,
48 F.S., relating to suspension of a judgment debtor's
49 license, repayment by the licensee, and interest;
50 repealing s. 468.399, F.S., relating to the
51 expenditure of excess funds; amending s. 468.401,
52 F.S.; deleting the definitions of the terms
53 "department," "license," and "licensee"; repealing s.
54 468.402, F.S., relating to the duties of the
55 Department of Business and Professional Regulation;
56 repealing s. 468.403, F.S., relating to licensure and
57 application requirements for owners and operators of
58 talent agencies; repealing s. 468.404, F.S., relating
59 to fees and renewal of talent agency licenses;
60 repealing s. 468.405, F.S., relating to qualification
61 for talent agency licenses; amending s. 468.406, F.S.;

28-00505-17

2017802__

62 deleting the requirement for talent agencies to file
63 with the department an itemized schedule of certain
64 fees and an amended or supplemental schedule under
65 certain circumstances; repealing s. 468.407, F.S.,
66 relating to license contents and posting; amending s.
67 468.408, F.S.; deleting a requirement that a talent
68 agency file a bond for each talent agency license;
69 deleting a departmental requirement to approve talent
70 agency bonds; requiring that a bonding company notify
71 the talent agency, rather than the department, of
72 certain claims; amending s. 468.409, F.S.; deleting
73 provisions requiring talent agencies to make specified
74 records readily available for inspection by the
75 department; amending s. 468.410, F.S.; deleting a
76 reference to the department in talent agency
77 contracts; amending s. 468.412, F.S.; revising the
78 information that talent agencies are required to enter
79 on records; revising the requirements for talent
80 agencies to post certain laws and rules; revising the
81 information required in talent agency publications;
82 amending s. 468.413, F.S.; deleting provisions
83 relating to criminal violations for failing to obtain
84 or maintain licensure with the department; deleting
85 provisions authorizing the court to suspend or revoke
86 a license; deleting a provision authorizing the
87 department to impose a \$5,000 fine under certain
88 circumstances; repealing s. 468.414, F.S., relating to
89 collection and deposit of fines, fees, and penalties
90 by the department; amending s. 468.415, F.S.; deleting

28-00505-17

2017802__

91 a provision authorizing the department to permanently
92 revoke a license; amending s. 469.006, F.S.; requiring
93 an individual applicant to apply for licensure in the
94 name of the business organization that he or she
95 proposes to operate under; requiring that a license be
96 in the name of a qualifying agent rather than the name
97 of a business organization; requiring the qualifying
98 agent, rather than the business organization, to
99 report certain changes in information; conforming
100 provisions to changes made by the act; amending s.
101 469.009, F.S.; deleting the authority of the
102 department to reprimand, censure, or impose probation
103 on certain business organizations; amending s.
104 476.034, F.S.; defining and redefining terms; amending
105 s. 476.114, F.S.; revising requirements for licensure
106 by examination for barbers; providing requirements for
107 licensure by examination to practice restricted
108 barbering; conforming a cross-reference; amending s.
109 476.144, F.S.; conforming a cross-reference; amending
110 s. 477.013, F.S.; revising the definition of the term
111 "specialty"; repealing s. 477.0132, F.S., relating to
112 hair braiding, hair wrapping, and body wrapping
113 registration; amending s. 477.0135, F.S.; exempting
114 from certain licensure and registration requirements
115 persons whose occupation or practice is confined
116 solely to hair braiding, hair wrapping, or body
117 wrapping; amending s. 477.019, F.S.; deleting an
118 exemption from certain continuing education
119 requirements for persons whose occupation or practice

28-00505-17

2017802__

120 is confined solely to hair braiding, hair wrapping, or
121 body wrapping; amending s. 477.0201, F.S.; providing
122 requirements for registration as a specialist in nail
123 specialty practices, facial specialty practices, and
124 full specialty practices; amending s. 477.026, F.S.;
125 conforming a provision to changes made by the act;
126 amending s. 481.203, F.S.; defining the term "business
127 organization"; deleting the definition of the term
128 "certificate of authorization"; amending s. 481.219,
129 F.S.; revising the process by which a business
130 organization obtains the requisite license to perform
131 architectural services; requiring that a licensee or
132 an applicant apply to qualify a business organization
133 under certain circumstances; specifying application
134 requirements; authorizing the Board of Architecture
135 and Interior Design to deny an application under
136 certain circumstances; requiring that a qualifying
137 agent be a registered architect or a registered
138 interior designer under certain circumstances;
139 requiring that a qualifying agent notify the
140 department when she or he ceases to be affiliated with
141 a business organization; prohibiting a business
142 organization from engaging in certain practices until
143 it is qualified by a qualifying agent; authorizing the
144 executive director or the chair of the board to
145 authorize a certain registered architect or interior
146 designer to temporarily serve as the business
147 organization's qualifying agent for a specified
148 timeframe under certain circumstances; requiring the

28-00505-17

2017802__

149 qualifying agent to give written notice to the
150 department before engaging in practice under her or
151 his own name or in affiliation with another business
152 organization; requiring the board to certify an
153 applicant to qualify one or more business
154 organizations or to operate using a fictitious name
155 under certain circumstances; conforming provisions to
156 changes made by the act; amending s. 481.221, F.S.;
157 requiring a business organization to include the
158 license number of a certain registered architect or
159 interior designer in any advertising; providing an
160 exception; conforming provisions to changes made by
161 the act; amending s. 481.229, F.S.; conforming
162 provisions to changes made by the act; reordering and
163 amending s. 481.303, F.S.; defining and redefining
164 terms; amending s. 481.321, F.S.; revising provisions
165 that require persons to display certificate numbers
166 under certain circumstances; conforming provisions to
167 changes made by the act; amending ss. 481.311,
168 481.317, and 481.319, F.S.; conforming provisions to
169 changes made by the act; amending s. 481.329, F.S.;
170 conforming a cross-reference; amending s. 492.111,
171 F.S.; revising requirements for the practice of, or
172 offer to practice, professional geology; deleting a
173 requirement that a firm, corporation, or partnership
174 be issued a specified certificate of authorization;
175 conforming provisions to changes made by the act;
176 amending ss. 492.104, 492.113, and 492.115, F.S.;
177 conforming provisions to changes made by the act;

28-00505-17

2017802__

178 amending s. 548.017, F.S.; revising the persons
179 required to be licensed by the State Boxing
180 Commission; amending s. 548.003, F.S.; conforming a
181 provision to changes made by the act; providing an
182 effective date.

183

184 Be It Enacted by the Legislature of the State of Florida:

185

186 Section 1. Subsection (13) of section 326.004, Florida
187 Statutes, is amended to read:

188 326.004 Licensing.—

189 (13) Each broker must maintain a principal place of
190 business in this state and may establish branch offices in the
191 state. ~~A separate license must be maintained for each branch
192 office. The division shall establish by rule a fee not to exceed
193 \$100 for each branch office license.~~

194 Section 2. Subsection (3) of section 447.02, Florida
195 Statutes, is amended to read:

196 447.02 Definitions.—The following terms, when used in this
197 chapter, shall have the meanings ascribed to them in this
198 section:

199 ~~(3) The term "department" means the Department of Business
200 and Professional Regulation.~~

201 Section 3. Section 447.04, Florida Statutes, is repealed.

202 Section 4. Section 447.041, Florida Statutes, is repealed.

203 Section 5. Section 447.045, Florida Statutes, is repealed.

204 Section 6. Section 447.06, Florida Statutes, is repealed.

205 Section 7. Subsections (6) and (8) of section 447.09,

206 Florida Statutes, are amended to read:

28-00505-17

2017802__

207 447.09 Right of franchise preserved; penalties.—It shall be
208 unlawful for any person:

209 ~~(6) To act as a business agent without having obtained and~~
210 ~~possessing a valid and subsisting license or permit.~~

211 ~~(8) To make any false statement in an application for a~~
212 ~~license.~~

213 Section 8. Section 447.12, Florida Statutes, is repealed.

214 Section 9. Section 447.16, Florida Statutes, is repealed.

215 Section 10. Section 468.381, Florida Statutes, is amended
216 to read:

217 468.381 Purpose.—The Legislature finds that dishonest or
218 unscrupulous ~~unqualified~~ auctioneers and ~~apprentices and~~
219 ~~unreliable~~ auction businesses present a significant threat to
220 the public. It is the intent of the Legislature to protect the
221 public by creating civil and criminal causes of action against a
222 ~~board to regulate auctioneers, apprentices, and auction~~
223 ~~businesses and by requiring a license to operate.~~

224 Section 11. Present subsections (6), (7), and (8) of
225 section 468.382, Florida Statutes, are redesignated as
226 subsections (3), (4), and (5), respectively, and subsection (2)
227 and present subsections (3), (4), and (5) of that section are
228 amended, to read:

229 468.382 Definitions.—As used in this act, the term:

230 (2) "Auctioneer" means any person who conducts auctions
231 within the State of Florida licensed pursuant to this part who
232 ~~holds a valid Florida auctioneer license.~~

233 ~~(3) "Apprentice" means any person who is being trained as~~
234 ~~an auctioneer by a licensed auctioneer.~~

235 ~~(4) "Board" means the Florida Board of Auctioneers.~~

28-00505-17

2017802__

236 ~~(5) "Department" means the Department of Business and~~
237 ~~Professional Regulation.~~

238 Section 12. Section 468.384, Florida Statutes, is repealed.

239 Section 13. Section 468.385, Florida Statutes, is repealed.

240 Section 14. Section 468.3851, Florida Statutes, is
241 repealed.

242 Section 15. Section 468.3852, Florida Statutes, is
243 repealed.

244 Section 16. Section 468.3855, Florida Statutes, is
245 repealed.

246 Section 17. Section 468.386, Florida Statutes, is repealed.

247 Section 18. Section 468.387, Florida Statutes, is repealed.

248 Section 19. Section 468.388, Florida Statutes, is amended
249 to read:

250 468.388 Conduct of an auction.—

251 (1) Prior to conducting an auction in this state, an
252 auctioneer or auction business shall execute a written agreement
253 with the owner, or the agent of the owner, of any property to be
254 offered for sale, stating:

255 (a) The name and address of the owner of the property;

256 (b) The name and address of the person employing the
257 auctioneer or auction business, if different from the owner; and

258 (c) The terms or conditions upon which the auctioneer or
259 auction business will receive the property for sale and remit
260 the sales proceeds to the owner.

261 (2) The auctioneer or auction business shall give the owner
262 one copy of the agreement and shall keep one copy for 2 years
263 after the date of the auction.

264 (3) Each auctioneer or auction business shall maintain a

28-00505-17

2017802__

265 record book of all sales. ~~The record book shall be open to~~
266 ~~inspection by the board at reasonable times.~~

267 ~~(4) Each auction must be conducted by an auctioneer who has~~
268 ~~an active license or by an apprentice who has an active~~
269 ~~apprentice auctioneer license and who has received prior written~~
270 ~~sponsor consent. Each auction must be conducted under the~~
271 ~~auspices of a licensed auction business. Any auctioneer or~~
272 ~~apprentice auctioneer conducting an auction, and any auction~~
273 ~~business under whose auspices such auction is held, shall be~~
274 ~~responsible for determining that any auctioneer, apprentice, or~~
275 ~~auction business with whom they are associated in conducting~~
276 ~~such auction has an active Florida auctioneer, apprentice, or~~
277 ~~auction business license.~~

278 ~~(5) The principal auctioneer shall prominently display at~~
279 ~~the auction site the licenses of the principal auctioneer, the~~
280 ~~auction business, and any other licensed auctioneers or~~
281 ~~apprentices who are actively participating in the auction. If~~
282 ~~such a display is not practicable, then an oral announcement at~~
283 ~~the beginning of the auction or a prominent written announcement~~
284 ~~that these licenses are available for inspection at the auction~~
285 ~~site must be made.~~

286 ~~(4)(6)~~ (4) If a buyer premium or any surcharge is a condition
287 to sale at any auction, the amount of the premium or surcharge
288 must be announced at the beginning of the auction and a written
289 notice of this information must be conspicuously displayed or
290 distributed to the public at the auction site.

291 ~~(5)(7)~~ (5) At the beginning of an auction must be announced the
292 terms of bidding and sale and whether the sale is with reserve,
293 without reserve, or absolute or if a minimum bid is required. If

28-00505-17

2017802__

294 the sale is absolute and has been announced or advertised as
295 such, an article or lot may not be withdrawn from sale once a
296 bid has been accepted. If no bid is received within a reasonable
297 time, the item or lot may be withdrawn.

298 (6)~~(8)~~ If an auction has been advertised as absolute, no
299 bid shall be accepted from the owner of the property or from
300 someone acting on behalf of the owner unless the right to bid is
301 specifically permitted by law.

302 (7)~~(9)~~ The auction business under which the auction is
303 conducted is responsible for all other aspects of the auction as
304 required by this part ~~board rule~~. The auction business may
305 delegate in whole, or in part, different aspects of the auction
306 only to the extent that such delegation is permitted by law and
307 that such delegation will not impede the principal auctioneer's
308 ability to ensure the proper conduct of his or her independent
309 responsibility for the auction. The auction business under whose
310 auspices the auction is conducted is responsible for ensuring
311 compliance as required by this part ~~board rule~~.

312 (8) (a)~~(10) (a)~~ When settlement is not made immediately after
313 an auction, all sale proceeds received for another person must
314 be deposited in an escrow or trust account in an insured bank or
315 savings and loan association located in this state within 2
316 working days after the auction. A maximum of \$100 may be kept in
317 the escrow account for administrative purposes.

318 (b) Each auction business shall maintain, for not less than
319 2 years, a separate ledger showing the funds held for another
320 person deposited and disbursed by the auction business for each
321 auction. The escrow or trust account must be reconciled monthly
322 with the bank statement. A signed and dated record shall be

28-00505-17

2017802__

323 maintained for a 2-year period ~~and be available for inspection~~
324 ~~by the department or at the request of the board.~~

325 (c) Any interest which accrues to sale proceeds on deposit
326 shall be the property of the seller for whom the funds were
327 received unless the parties have agreed otherwise by written
328 agreement executed prior to the auction.

329 (d) Unless otherwise provided by written agreement executed
330 prior to the auction, funds received by a licensee from the
331 seller or his or her agent for expenses, including advertising,
332 must be expended for the purposes advanced or refunded to the
333 seller at the time of final settlement. Any funds so received
334 shall be maintained in an escrow or trust account in an insured
335 bank or savings and loan association located in this state.
336 However, this does not prohibit advanced payment of a flat fee.

337 ~~(11) (a) All advertising by an auctioneer or auction~~
338 ~~business shall include the name and Florida license number of~~
339 ~~such auctioneer and auction business. The term "advertising"~~
340 ~~shall not include articles of clothing, directional signs, or~~
341 ~~other promotional novelty items.~~

342 (9) (a) (b) ~~A~~ No licensed auctioneer, apprentice, or auction
343 business may not disseminate or cause to be disseminated any
344 advertisement or advertising that ~~which~~ is false, deceptive,
345 misleading, or untruthful. Any advertisement or advertising is
346 ~~shall be~~ deemed to be false, deceptive, misleading, or
347 untruthful if it:

- 348 1. Contains misrepresentations of facts.
- 349 2. Is misleading or deceptive because, in its content or in
350 the context in which it is presented, it makes only a partial
351 disclosure of relevant facts.

28-00505-17

2017802__

352 3. Creates false or unjustified expectations of the
 353 services to be performed.

354 4. Contains any representation or claim which the
 355 advertising licensee fails to perform.

356 5. Fails to include the name and license number of the
 357 principal auctioneer and the auction business.

358 6. Fails to include the name and license number of the
 359 sponsor if an apprentice is acting as the principal auctioneer.

360 7. Advertises an auction as absolute without specifying any
 361 and all items to be sold with reserve or with minimum bids.

362 8. Fails to include the percentage amount of any buyer's
 363 premium or surcharge which is a condition to sale.

364 ~~(b)(c)~~ The provisions of This subsection applies ~~apply~~ to
 365 media exposure of any nature, regardless of whether it is in the
 366 form of paid advertising.

367 ~~(c)(d)~~ The auction business is ~~shall be~~ responsible for the
 368 content of all advertising disseminated in preparation for an
 369 auction.

370 Section 20. Section 468.389, Florida Statutes, is amended
 371 to read:

372 468.389 Prohibited acts; penalties.—

373 ~~(1)~~ The following acts are ~~shall be~~ grounds for a civil
 374 cause of action for damages against the auctioneer, auction
 375 business, or any owner or manager thereof, or, in the case of
 376 corporate ownership, any substantial stockholder of the
 377 corporation owning the auction business ~~the disciplinary~~
 378 ~~activities provided in subsections (2) and (3):~~

379 (1)(a) A violation of any law relating to trade or commerce
 380 of this state or of the state in which an auction is conducted.

28-00505-17

2017802__

381 (2)~~(b)~~ Misrepresentation of property for sale at auction or
382 making false promises concerning the use, value, or condition of
383 such property by an auctioneer or auction business or by anyone
384 acting as an agent of or with the consent of the auctioneer or
385 auction business.

386 (3)~~(e)~~ Failure to account for or to pay or return, within a
387 reasonable time not to exceed 30 days, money or property
388 belonging to another which has come into the control of an
389 auctioneer or auction business through an auction.

390 (4)~~(d)~~ False, deceptive, misleading, or untruthful
391 advertising.

392 (5)~~(e)~~ Any conduct in connection with a sales transaction
393 which demonstrates bad faith or dishonesty.

394 (6)~~(f)~~ Using or permitting the use of false bidders,
395 cappers, or shells.

396 (7)~~(g)~~ Making any material false statement on a license
397 application.

398 (8)~~(h)~~ Commingling money or property of another person with
399 his or her own. Every auctioneer and auction business shall
400 maintain a separate trust or escrow account in an insured bank
401 or savings and loan association located in this state in which
402 shall be deposited all proceeds received for another person
403 through an auction sale.

404 (9)~~(i)~~ Refusal or neglect of any auctioneer or other
405 receiver of public moneys to pay the moneys so received into the
406 State Treasury at the times and under the regulations prescribed
407 by law.

408 (10)~~(j)~~ Violating a statute ~~or administrative rule~~
409 regulating practice under this part ~~or a lawful disciplinary~~

28-00505-17

2017802__

410 ~~order of the board or the department.~~

411 ~~(k) Having a license to practice a comparable profession~~
412 ~~revoked, suspended, or otherwise acted against by another state,~~
413 ~~territory, or country.~~

414 ~~(11)~~ (1) Being convicted or found guilty, regardless of
415 adjudication, of a crime in any jurisdiction which directly
416 relates to the practice or the ability to practice the
417 profession of auctioneering.

418 ~~(2) When the board finds any person guilty of any of the~~
419 ~~prohibited acts set forth in subsection (1), it may enter an~~
420 ~~order imposing one or more of the following penalties:~~

421 ~~(a) Refusal to certify to the department an application for~~
422 ~~licensure.~~

423 ~~(b) Revocation or suspension of a license.~~

424 ~~(c) Imposition of an administrative fine not to exceed~~
425 ~~\$1,000 for each count or separate offense.~~

426 ~~(d) Issuance of a reprimand.~~

427 ~~(e) Placement of the auctioneer on probation for a period~~
428 ~~of time and subject to conditions as the board may specify,~~
429 ~~including requiring the auctioneer to successfully complete the~~
430 ~~licensure examination.~~

431 ~~(f) Requirement that the person in violation make~~
432 ~~restitution to each consumer affected by that violation. Proof~~
433 ~~of such restitution shall be a signed and notarized release~~
434 ~~executed by the consumer or the consumer's estate.~~

435 ~~(3)(a) Failure to pay a fine within a reasonable time, as~~
436 ~~prescribed by board rule, may be grounds for disciplinary~~
437 ~~action.~~

438 ~~(b) The department may file for an injunction or bring any~~

28-00505-17

2017802__

439 ~~other appropriate civil action against anyone who violates this~~
 440 ~~part.~~

441 Section 21. Section 468.391, Florida Statutes, is amended
 442 to read:

443 468.391 Penalty.—Any auctioneer, ~~apprentice,~~ or auction
 444 business or any owner or manager thereof, or, in the case of
 445 corporate ownership, any substantial stockholder of the
 446 corporation owning the auction business, who ~~operates without an~~
 447 ~~active license or~~ violates s. 468.389 (3), (5), (6), (8) s.
 448 ~~468.389(1)(c), (e), (f), (h), or (9) (i)~~ commits a felony of the
 449 third degree, punishable as provided in s. 775.082 or s.
 450 775.083.

451 Section 22. Section 468.392, Florida Statutes, is repealed.

452 Section 23. Section 468.393, Florida Statutes, is repealed.

453 Section 24. Section 468.394, Florida Statutes, is repealed.

454 Section 25. Section 468.395, Florida Statutes, is repealed.

455 Section 26. Section 468.396, Florida Statutes, is repealed.

456 Section 27. Section 468.397, Florida Statutes, is repealed.

457 Section 28. Section 468.398, Florida Statutes, is repealed.

458 Section 29. Section 468.399, Florida Statutes, is repealed.

459 Section 30. Section 468.401, Florida Statutes, is amended
 460 to read:

461 468.401 ~~Regulation of~~ Talent agencies; definitions.—As used
 462 in this part ~~or any rule adopted pursuant hereto:~~

463 (8)(1) "Talent agency" means any person who, for
 464 compensation, engages in the occupation or business of procuring
 465 or attempting to procure engagements for an artist.

466 (6)(2) "Owner" means any partner in a partnership, member
 467 of a firm, or principal officer or officers of a corporation,

28-00505-17

2017802__

468 whose partnership, firm, or corporation owns a talent agency, or
469 any individual who is the sole owner of a talent agency.

470 (3) "Compensation" means any one or more of the following:

471 (a) Any money or other valuable consideration paid or
472 promised to be paid for services rendered by any person
473 conducting the business of a talent agency under this part;

474 (b) Any money received by any person in excess of that
475 which has been paid out by such person for transportation,
476 transfer of baggage, or board and lodging for any applicant for
477 employment; or

478 (c) The difference between the amount of money received by
479 any person who furnishes employees, performers, or entertainers
480 for circus, vaudeville, theatrical, or other entertainments,
481 exhibitions, engagements, or performances and the amount paid by
482 him or her to such employee, performer, or entertainer.

483 (4) "Engagement" means any employment or placement of an
484 artist, where the artist performs in his or her artistic
485 capacity. However, the term "engagement" shall not apply to
486 procuring opera, music, theater, or dance engagements for any
487 organization defined in s. 501(c)(3) of the Internal Revenue
488 Code or any nonprofit Florida arts organization that has
489 received a grant from the Division of Cultural Affairs of the
490 Department of State or has participated in the state touring
491 program of the Division of Cultural Affairs.

492 ~~(5) "Department" means the Department of Business and
493 Professional Regulation.~~

494 (5)~~(6)~~ "Operator" means the person who is or who will be in
495 actual charge of a talent agency.

496 (2)~~(7)~~ "Buyer" or "employer" means a person, company,

28-00505-17

2017802__

497 partnership, or corporation that uses the services of a talent
498 agency to provide artists.

499 (1)~~(8)~~ "Artist" means a person performing on the
500 professional stage or in the production of television, radio, or
501 motion pictures; a musician or group of musicians; or a model.

502 (7)~~(9)~~ "Person" means any individual, company, society,
503 firm, partnership, association, corporation, manager, or any
504 agent or employee of any of the foregoing.

505 ~~(10) "License" means a license issued by the Department of~~
506 ~~Business and Professional Regulation to carry on the business of~~
507 ~~a talent agency under this part.~~

508 ~~(11) "Licensee" means a talent agency which holds a valid~~
509 ~~unrevoked and unforfeited license issued under this part.~~

510 Section 31. Section 468.402, Florida Statutes, is repealed.

511 Section 32. Section 468.403, Florida Statutes, is repealed.

512 Section 33. Section 468.404, Florida Statutes, is repealed.

513 Section 34. Section 468.405, Florida Statutes, is repealed.

514 Section 35. Subsection (1) of section 468.406, Florida
515 Statutes, is amended to read:

516 468.406 Fees to be charged by talent agencies; rates;
517 display.-

518 (1) Each owner or operator of a talent agency shall post
519 ~~applicant for a license shall file with the application an~~
520 ~~itemized schedule of maximum fees, charges, and commissions that~~
521 ~~which it intends to charge and collect for its services. This~~
522 ~~schedule may thereafter be raised only by filing with the~~
523 ~~department an amended or supplemental schedule at least 30 days~~
524 ~~before the change is to become effective. The schedule shall be~~
525 ~~posted~~ in a conspicuous place in each place of business of the

28-00505-17

2017802__

526 agency, and the schedule shall be printed in not less than a 30-
527 point boldfaced type, except that an agency that uses written
528 contracts containing maximum fee schedules need not post such
529 schedules.

530 Section 36. Section 468.407, Florida Statutes, is repealed.

531 Section 37. Subsection (1) of section 468.408, Florida
532 Statutes, is amended to read:

533 468.408 Bond required.—

534 (1) ~~A There shall be filed with the department for each~~
535 talent agency shall obtain license a bond in the form of a
536 surety by a reputable company engaged in the bonding business
537 and authorized to do business in this state. The bond shall be
538 for the penal sum of \$5,000, with one or more sureties ~~to be~~
539 ~~approved by the department,~~ and be conditioned that the talent
540 agency applicant conform to and not violate any of the duties,
541 terms, conditions, provisions, or requirements of this part.

542 (a) If any person is aggrieved by the misconduct of any
543 talent agency, the person may maintain an action in his or her
544 own name upon the bond of the agency in any court having
545 jurisdiction of the amount claimed. All such claims shall be
546 assignable, and the assignee shall be entitled to the same
547 remedies, upon the bond of the agency or otherwise, as the
548 person aggrieved would have been entitled to if such claim had
549 not been assigned. Any claim or claims so assigned may be
550 enforced in the name of such assignee.

551 (b) The bonding company shall notify the talent agency
552 ~~department~~ of any claim against such bond, and a copy of such
553 notice shall be sent to the talent agency against which the
554 claim is made.

28-00505-17

2017802__

555 Section 38. Section 468.409, Florida Statutes, is amended
556 to read:

557 468.409 Records required to be kept.—Each talent agency
558 shall keep on file the application, registration, or contract of
559 each artist. In addition, such file must include the name and
560 address of each artist, the amount of the compensation received,
561 and all attempts to procure engagements for the artist. No such
562 agency or employee thereof shall knowingly make any false entry
563 in applicant files or receipt files. Each card or document in
564 such files shall be preserved for a period of 1 year after the
565 date of the last entry thereon. ~~Records required under this~~
566 ~~section shall be readily available for inspection by the~~
567 ~~department during reasonable business hours at the talent~~
568 ~~agency's principal office. A talent agency must provide the~~
569 ~~department with true copies of the records in the manner~~
570 ~~prescribed by the department.~~

571 Section 39. Subsection (3) of section 468.410, Florida
572 Statutes, is amended to read:

573 468.410 Prohibition against registration fees; referral.—

574 (3) A talent agency shall give each applicant a copy of a
575 contract, within 24 hours after the contract's execution, which
576 lists the services to be provided and the fees to be charged.
577 ~~The contract shall state that the talent agency is regulated by~~
578 ~~the department and shall list the address and telephone number~~
579 ~~of the department.~~

580 Section 40. Section 468.412, Florida Statutes, is amended
581 to read:

582 468.412 Talent agency regulations; prohibited acts.—

583 (1) A talent agency shall maintain a record sheet for each

28-00505-17

2017802__

584 booking. This shall be the only required record of placement and
585 shall be kept for a period of 1 year after the date of the last
586 entry in the buyer's file.

587 (2) Each talent agency shall keep records in which shall be
588 entered:

589 (a) The name and address of each artist employing such
590 talent agency;

591 (b) The amount of fees received from each such artist; and

592 (c) The employment in which each such artist is engaged at
593 the time of employing such talent agency and the amount of
594 compensation of the artist in such employment, if any, and the
595 employments subsequently secured by such artist during the term
596 of the contract between the artist and the talent agency and the
597 amount of compensation received by the artist pursuant thereto. +
598 and

599 ~~(d) Other information which the department may require from~~
600 ~~time to time.~~

601 ~~(3) All books, records, and other papers kept pursuant to~~
602 ~~this act by any talent agency shall be open at all reasonable~~
603 ~~hours to the inspection of the department and its agents. Each~~
604 ~~talent agency shall furnish to the department, upon request, a~~
605 ~~true copy of such books, records, and papers, or any portion~~
606 ~~thereof, and shall make such reports as the department may~~
607 ~~prescribe from time to time.~~

608 (3)~~(4)~~ Each talent agency shall post in a conspicuous place
609 in the office of such talent agency a printed copy of this part
610 and ~~of the rules adopted under this part. Such copies shall also~~
611 ~~contain the name and address of the officer charged with~~
612 ~~enforcing this part. The department shall furnish to talent~~

28-00505-17

2017802__

613 ~~agencies printed copies of any statute or rule required to be~~
614 ~~posted under this subsection.~~

615 (4) ~~(a)-(5)-(a)~~ No talent agency may knowingly issue a
616 contract for employment containing any term or condition which,
617 if complied with, would be in violation of law, or attempt to
618 fill an order for help to be employed in violation of law.

619 (b) A talent agency must advise an artist, in writing, that
620 the artist has a right to rescind a contract for employment
621 within the first 3 business days after the contract's execution.
622 Any engagement procured by the talent agency for the artist
623 during the first 3 business days of the contract remains
624 commissionable to the talent agency.

625 (5) ~~(6)~~ No talent agency may publish or cause to be
626 published any false, fraudulent, or misleading information,
627 representation, notice, or advertisement. All advertisements of
628 a talent agency by means of card, circulars, or signs, and in
629 newspapers and other publications, and all letterheads,
630 receipts, and blanks shall be printed and contain the licensed
631 ~~name, department license number,~~ and address of the talent
632 agency and the words "talent agency." No talent agency may give
633 any false information or make any false promises or
634 representations concerning an engagement or employment to any
635 applicant who applies for an engagement or employment.

636 (6) ~~(7)~~ No talent agency may send or cause to be sent any
637 person as an employee to any house of ill fame, to any house or
638 place of amusement for immoral purposes, to any place resorted
639 to for the purposes of prostitution, to any place for the
640 modeling or photographing of a minor in the nude in the absence
641 of written permission from the minor's parents or legal

28-00505-17

2017802__

642 guardians, the character of which places the talent agency could
643 have ascertained upon reasonable inquiry.

644 (7)~~(8)~~ No talent agency, without the written consent of the
645 artist, may divide fees with anyone, including, but not limited
646 to, an agent or other employee of an employer, a buyer, a
647 casting director, a producer, a director, or any venue that uses
648 entertainment. For purposes of this subsection, to "divide fees"
649 includes the sharing among two or more persons of those fees
650 charged to an artist for services performed on behalf of that
651 artist, the total amount of which fees exceeds the amount that
652 would have been charged to the artist by the talent agency
653 alone.

654 (8)~~(9)~~ If a talent agency collects from an artist a fee or
655 expenses for obtaining employment for the artist, and the artist
656 fails to procure such employment, or the artist fails to be paid
657 for such employment if procured, such talent agency shall, upon
658 demand therefor, repay to the artist the fee and expenses so
659 collected. Unless repayment thereof is made within 48 hours
660 after demand therefor, the talent agency shall pay to the artist
661 an additional sum equal to the amount of the fee.

662 (9)~~(10)~~ Each talent agency must maintain a permanent office
663 and must maintain regular operating hours at that office.

664 (10)~~(11)~~ A talent agency may assign an engagement contract
665 to another talent agency licensed in this state only if the
666 artist agrees in writing to the assignment. The assignment must
667 occur, and written notice of the assignment must be given to the
668 artist, within 30 days after the artist agrees in writing to the
669 assignment.

670 Section 41. Section 468.413, Florida Statutes, is amended

28-00505-17

2017802__

671 to read:

672 468.413 Legal requirements; penalties.-

673 (1) ~~Each of the following acts constitutes a felony of the~~
674 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
675 ~~or s. 775.084:~~

676 ~~(a) Owning or operating, or soliciting business as, a~~
677 ~~talent agency in this state without first procuring a license~~
678 ~~from the department.~~

679 ~~(b) Obtaining or attempting to obtain a license by means of~~
680 ~~fraud, misrepresentation, or concealment.~~

681 ~~(2) Each of the following acts constitutes a misdemeanor of~~
682 ~~the second degree, punishable as provided in s. 775.082 or s.~~
683 ~~775.083:~~

684 ~~(a) Relocating a business as a talent agency, or operating~~
685 ~~under any name other than that designated on the license, unless~~
686 ~~written notification is given to the department and to the~~
687 ~~surety or sureties on the original bond, and unless the license~~
688 ~~is returned to the department for the recording thereon of such~~
689 ~~changes.~~

690 ~~(b) Assigning or attempting to assign a license issued~~
691 ~~under this part.~~

692 ~~(c) Failing to show on a license application whether or not~~
693 ~~the agency or any owner of the agency is financially interested~~
694 ~~in any other business of like nature and, if so, failing to~~
695 ~~specify such interest or interests.~~

696 (a) ~~(d)~~ Failing to maintain the records required by s.
697 468.409 or knowingly making false entries in such records.

698 (b) ~~(e)~~ Requiring as a condition to registering or obtaining
699 employment or placement for any applicant that the applicant

28-00505-17

2017802__

700 subscribe to, purchase, or attend any publication, postcard
701 service, advertisement, resume service, photography service,
702 school, acting school, workshop, or acting workshop.

703 (c)~~(f)~~ Failing to give each applicant a copy of a contract
704 which lists the services to be provided and the fees to be
705 charged by, ~~which states that the talent agency is regulated by~~
706 ~~the department, and which lists the address and telephone number~~
707 ~~of the department.~~

708 (d)~~(g)~~ Failing to maintain a record sheet as required by s.
709 468.412(1).

710 (e)~~(h)~~ Knowingly sending or causing to be sent any artist
711 to a prospective employer or place of business, the character or
712 operation of which employer or place of business the talent
713 agency knows to be in violation of the laws of the United States
714 or of this state.

715 ~~(3) The court may, in addition to other punishment provided~~
716 ~~for in subsection (2), suspend or revoke the license of any~~
717 ~~licensee under this part who has been found guilty of any~~
718 ~~misdemeanor listed in subsection (2).~~

719 (2)~~(4)~~ In the event that ~~the department or any state~~
720 ~~attorney shall have probable cause to believe that a talent~~
721 ~~agency or other person has violated any provision of subsection~~
722 ~~(1), an action may be brought by the department or any state~~
723 ~~attorney to enjoin such talent agency or any person from~~
724 ~~continuing such violation, or engaging therein or doing any acts~~
725 ~~in furtherance thereof, and for such other relief as to the~~
726 ~~court seems appropriate. In addition to this remedy, the~~
727 ~~department may assess a penalty against any talent agency or any~~
728 ~~person in an amount not to exceed \$5,000.~~

28-00505-17

2017802__

729 Section 42. Section 468.414, Florida Statutes, is repealed.

730 Section 43. Section 468.415, Florida Statutes, is amended
731 to read:

732 468.415 Sexual misconduct in the operation of a talent
733 agency.—The talent agent-artist relationship is founded on
734 mutual trust. Sexual misconduct in the operation of a talent
735 agency means violation of the talent agent-artist relationship
736 through which the talent agent uses the relationship to induce
737 or attempt to induce the artist to engage or attempt to engage
738 in sexual activity. Sexual misconduct is prohibited in the
739 operation of a talent agency. ~~If Any agent, owner, or operator~~
740 ~~of a licensed talent agency who commits is found to have~~
741 ~~committed sexual misconduct in the operation of a talent agency,~~
742 ~~the agency license shall be permanently revoked. Such agent,~~
743 ~~owner, or operator shall be permanently prohibited from acting~~
744 ~~disqualified from present and future licensure as an agent,~~
745 ~~owner, or operator of a Florida talent agency.~~

746 Section 44. Paragraphs (a) and (e) of subsection (2),
747 subsection (3), paragraph (b) of subsection (4), and subsection
748 (6) of section 469.006, Florida Statutes, are amended to read:

749 469.006 Licensure of business organizations; qualifying
750 agents.—

751 (2) (a) If the applicant proposes to engage in consulting or
752 contracting as a partnership, corporation, business trust, or
753 other legal entity, or in any name other than the applicant's
754 legal name, ~~the legal entity must apply for licensure through a~~
755 ~~qualifying agent or the individual applicant must apply for~~
756 licensure under the name of the business organization ~~fictitious~~
757 ~~name.~~

28-00505-17

2017802__

758 (e) ~~A~~ The license, ~~when issued upon application of a~~
759 ~~business organization~~, must be in the name of the qualifying
760 agent business organization, and the name of the business
761 organization ~~qualifying agent~~ must be noted on the license
762 ~~thereon~~. If there is a change in any information that is
763 required to be stated on the application, the qualifying agent
764 ~~business organization~~ shall, within 45 days after such change
765 occurs, mail the correct information to the department.

766 (3) The qualifying agent must ~~shall~~ be licensed under this
767 chapter in order for the business organization to be qualified
768 ~~licensed~~ in the category of the business conducted for which the
769 qualifying agent is licensed. If any qualifying agent ceases to
770 be affiliated with such business organization, the agent shall
771 so inform the department. In addition, if such qualifying agent
772 is the only licensed individual affiliated with the business
773 organization, the business organization shall notify the
774 department of the termination of the qualifying agent and has
775 ~~shall have~~ 60 days after ~~from~~ the date of termination of the
776 qualifying agent's affiliation with the business organization ~~in~~
777 ~~which~~ to employ another qualifying agent. The business
778 organization may not engage in consulting or contracting until a
779 qualifying agent is employed, unless the department has granted
780 a temporary nonrenewable license to the financially responsible
781 officer, the president, the sole proprietor, a partner, or, in
782 the case of a limited partnership, the general partner, who
783 assumes all responsibilities of a primary qualifying agent for
784 the entity. This temporary license only allows ~~shall only allow~~
785 the entity to proceed with incomplete contracts.

786 (4)

28-00505-17

2017802__

787 (b) Upon a favorable determination by the department, after
788 investigation of the financial responsibility, credit, and
789 business reputation of the qualifying agent and the new business
790 organization, the department shall issue, without any
791 examination, a new license in the qualifying agent's ~~business~~
792 ~~organization's~~ name, and the name of the business organization
793 ~~qualifying agent~~ shall be noted thereon.

794 (6) Each qualifying agent shall pay the department an
795 amount equal to the original fee for licensure ~~of a new business~~
796 ~~organization~~, if the qualifying agent for a business
797 organization desires to qualify additional business
798 organizations. 7 The department shall require the agent to
799 present evidence of supervisory ability and financial
800 responsibility of each such organization. Allowing a licensee to
801 qualify more than one business organization must ~~shall~~ be
802 conditioned upon the licensee showing that the licensee has both
803 the capacity and intent to adequately supervise each business
804 organization. The department may ~~shall~~ not limit the number of
805 business organizations that ~~which~~ the licensee may qualify
806 except upon the licensee's failure to provide such information
807 as is required under this subsection or upon a finding that the
808 ~~such~~ information or evidence ~~as is~~ supplied is incomplete or
809 unpersuasive in showing the licensee's capacity and intent to
810 comply with the requirements of this subsection. A qualification
811 for an additional business organization may be revoked or
812 suspended upon a finding by the department that the licensee has
813 failed in the licensee's responsibility to adequately supervise
814 the operations of the business organization. Failure to
815 adequately supervise the operations of a business organization

28-00505-17

2017802__

816 is ~~shall be~~ grounds for denial to qualify additional business
817 organizations.

818 Section 45. Subsection (1) of section 469.009, Florida
819 Statutes, is amended to read:

820 469.009 License revocation, suspension, and denial of
821 issuance or renewal.—

822 (1) The department may revoke, suspend, or deny the
823 issuance or renewal of a license; reprimand, censure, or place
824 on probation any contractor, consultant, or financially
825 responsible officer, ~~or business organization~~; require financial
826 restitution to a consumer; impose an administrative fine not to
827 exceed \$5,000 per violation; require continuing education; or
828 assess costs associated with any investigation and prosecution
829 if the contractor or consultant, or business organization or
830 officer or agent thereof, is found guilty of any of the
831 following acts:

832 (a) Willfully or deliberately disregarding or violating the
833 health and safety standards of the Occupational Safety and
834 Health Act of 1970, the Construction Safety Act, the National
835 Emission Standards for Asbestos, the Environmental Protection
836 Agency Asbestos Abatement Projects Worker Protection Rule, the
837 Florida Statutes or rules promulgated thereunder, or any
838 ordinance enacted by a political subdivision of this state.

839 (b) Violating any provision of chapter 455.

840 (c) Failing in any material respect to comply with the
841 provisions of this chapter or any rule promulgated hereunder.

842 (d) Acting in the capacity of an asbestos contractor or
843 asbestos consultant under any license issued under this chapter
844 except in the name of the licensee as set forth on the issued

28-00505-17

2017802__

845 license.

846 (e) Proceeding on any job without obtaining all applicable
847 approvals, authorizations, permits, and inspections.

848 (f) Obtaining a license by fraud or misrepresentation.

849 (g) Being convicted or found guilty of, or entering a plea
850 of nolo contendere to, regardless of adjudication, a crime in
851 any jurisdiction which directly relates to the practice of
852 asbestos consulting or contracting or the ability to practice
853 asbestos consulting or contracting.

854 (h) Knowingly violating any building code, lifesafety code,
855 or county or municipal ordinance relating to the practice of
856 asbestos consulting or contracting.

857 (i) Performing any act which assists a person or entity in
858 engaging in the prohibited unlicensed practice of asbestos
859 consulting or contracting, if the licensee knows or has
860 reasonable grounds to know that the person or entity was
861 unlicensed.

862 (j) Committing mismanagement or misconduct in the practice
863 of contracting that causes financial harm to a customer.
864 Financial mismanagement or misconduct occurs when:

865 1. Valid liens have been recorded against the property of a
866 contractor's customer for supplies or services ordered by the
867 contractor for the customer's job; the contractor has received
868 funds from the customer to pay for the supplies or services; and
869 the contractor has not had the liens removed from the property,
870 by payment or by bond, within 75 days after the date of such
871 liens;

872 2. The contractor has abandoned a customer's job and the
873 percentage of completion is less than the percentage of the

28-00505-17

2017802__

874 total contract price paid to the contractor as of the time of
875 abandonment, unless the contractor is entitled to retain such
876 funds under the terms of the contract or refunds the excess
877 funds within 30 days after the date the job is abandoned; or

878 3. The contractor's job has been completed, and it is shown
879 that the customer has had to pay more for the contracted job
880 than the original contract price, as adjusted for subsequent
881 change orders, unless such increase in cost was the result of
882 circumstances beyond the control of the contractor, was the
883 result of circumstances caused by the customer, or was otherwise
884 permitted by the terms of the contract between the contractor
885 and the customer.

886 (k) Being disciplined by any municipality or county for an
887 act or violation of this chapter.

888 (l) Failing in any material respect to comply with the
889 provisions of this chapter, or violating a rule or lawful order
890 of the department.

891 (m) Abandoning an asbestos abatement project in which the
892 asbestos contractor is engaged or under contract as a
893 contractor. A project may be presumed abandoned after 20 days if
894 the contractor terminates the project without just cause and
895 without proper notification to the owner, including the reason
896 for termination; if the contractor fails to reasonably secure
897 the project to safeguard the public while work is stopped; or if
898 the contractor fails to perform work without just cause for 20
899 days.

900 (n) Signing a statement with respect to a project or
901 contract falsely indicating that the work is bonded; falsely
902 indicating that payment has been made for all subcontracted

28-00505-17

2017802__

903 work, labor, and materials which results in a financial loss to
904 the owner, purchaser, or contractor; or falsely indicating that
905 workers' compensation and public liability insurance are
906 provided.

907 (o) Committing fraud or deceit in the practice of asbestos
908 consulting or contracting.

909 (p) Committing incompetency or misconduct in the practice
910 of asbestos consulting or contracting.

911 (q) Committing gross negligence, repeated negligence, or
912 negligence resulting in a significant danger to life or property
913 in the practice of asbestos consulting or contracting.

914 (r) Intimidating, threatening, coercing, or otherwise
915 discouraging the service of a notice to owner under part I of
916 chapter 713 or a notice to contractor under chapter 255 or part
917 I of chapter 713.

918 (s) Failing to satisfy, within a reasonable time, the terms
919 of a civil judgment obtained against the licensee, or the
920 business organization qualified by the licensee, relating to the
921 practice of the licensee's profession.

922

923 For the purposes of this subsection, construction is considered
924 to be commenced when the contract is executed and the contractor
925 has accepted funds from the customer or lender.

926 Section 46. Subsection (2) of section 476.034, Florida
927 Statutes, is amended, and subsections (6) and (7) are added to
928 that section, to read:

929 476.034 Definitions.—As used in this act:

930 (2) "Barbering" means any of the following practices when
931 done for remuneration and for the public, but not when done for

28-00505-17

2017802__

932 the treatment of disease or physical or mental ailments:
933 shaving, cutting, trimming, coloring, shampooing, arranging,
934 dressing, curling, or waving the hair or beard or applying oils,
935 creams, lotions, or other preparations to the face, scalp, or
936 neck, either by hand or by mechanical appliances, and includes
937 restricted barbering services.

938 (6) "Restricted barber" means a person who is licensed to
939 engage in the practice of restricted barbering in this state
940 under the authority of this chapter and is subject to the same
941 requirements and restrictions as a barber, except as specified
942 in s. 476.114.

943 (7) "Restricted barbering" means any of the following
944 practices when done for remuneration and for the public, but not
945 when done for the treatment of disease or physical or mental
946 ailments: shaving, cutting, trimming, shampooing, arranging,
947 dressing, or curling the hair or beard, including the
948 application of shampoo, hair conditioners, shaving creams, hair
949 tonic, and hair spray to the face, scalp, or neck, either by
950 hand or by mechanical appliances. The term does not include the
951 application of oils, creams, lotions, or other preparations to
952 the face, scalp, or neck.

953 Section 47. Section 476.114, Florida Statutes, is amended
954 to read:

955 476.114 Examination; prerequisites.—

956 (1) A person desiring to be licensed as a barber shall
957 apply to the department for licensure and is—

958 ~~(2) An applicant shall be eligible for licensure by~~
959 examination to practice barbering if he or she ~~the applicant~~:

960 (a) Is at least 16 years of age;

28-00505-17

2017802__

961 (b) Pays the required application fee; and

962 (c)1. Holds an active valid license to practice barbering
963 in another state, has held the license for at least 1 year, and
964 does not qualify for licensure by endorsement as provided for in
965 s. 476.144(5); or

966 2. Has received a minimum of 800 ~~1,200~~ hours of training in
967 sanitation, safety, and laws and rules, as established by the
968 board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to,
969 the equivalent of completion of services directly related to the
970 practice of barbering at one of the following:

971 a. A school of barbering licensed pursuant to chapter 1005;

972 b. A barbering program within the public school system; or

973 c. A government-operated barbering program in this state.
974

975 ~~The board shall establish by rule procedures whereby the school~~
976 ~~or program may certify that a person is qualified to take the~~
977 ~~required examination after the completion of a minimum of 1,000~~
978 ~~actual school hours. If the person passes the examination, she~~
979 ~~or he shall have satisfied this requirement; but if the person~~
980 ~~fails the examination, she or he shall not be qualified to take~~
981 ~~the examination again until the completion of the full~~
982 ~~requirements provided by this section.~~

983 (2) An applicant is eligible for licensure by examination
984 to practice restricted barbering if he or she:

985 (a) Is at least 16 years of age;

986 (b) Pays the required application fee; and

987 (c)1. Holds an active valid license to practice barbering
988 in another state, has held the license for at least 1 year, and
989 does not qualify for licensure by endorsement as provided for in

28-00505-17

2017802__

990 s. 476.144(5); or

991 2. Has received a minimum of 525 hours of training in
992 sanitation, safety, and laws and rules, as established by the
993 board, which must include, but is not limited to, the equivalent
994 of completion of services directly related to the practice of
995 restricted barbering at one of the following:

996 a. A school of barbering licensed pursuant to chapter 1005;

997 b. A barbering program within the public school system; or

998 c. A government-operated barbering program in this state.

999 (3) An applicant who meets the requirements set forth in
1000 subparagraphs (1)(c)1. and 2. and (2)(c)1. and 2. who fails to
1001 pass the examination may take subsequent examinations as many
1002 times as necessary to pass, except that the board may specify by
1003 rule reasonable timeframes for rescheduling the examination and
1004 additional training requirements for applicants who, after the
1005 third attempt, fail to pass the examination. Prior to
1006 reexamination, the applicant must file the appropriate form and
1007 pay the reexamination fee as required by rule.

1008 Section 48. Paragraph (a) of subsection (6) of section
1009 476.144, Florida Statutes, is amended to read:

1010 476.144 Licensure.—

1011 (6) A person may apply for a restricted license to practice
1012 barbering. The board shall adopt rules specifying procedures for
1013 an applicant to obtain a restricted license if the applicant:

1014 (a)1. Has successfully completed a restricted barber
1015 course, as established by rule of the board, at a school of
1016 barbering licensed pursuant to chapter 1005, a barbering program
1017 within the public school system, or a government-operated
1018 barbering program in this state; or

28-00505-17

2017802__

1019 2.a. Holds or has within the previous 5 years held an
 1020 active valid license to practice barbering in another state or
 1021 country or has held a Florida barbering license which has been
 1022 declared null and void for failure to renew the license, and the
 1023 applicant fulfilled the requirements of s. 476.114(1)(c)2. ~~s.~~
 1024 ~~476.114(2)(e)2.~~ for initial licensure; and

1025 b. Has not been disciplined relating to the practice of
 1026 barbering in the previous 5 years; and

1027
 1028 The restricted license shall limit the licensee's practice to
 1029 those specific areas in which the applicant has demonstrated
 1030 competence pursuant to rules adopted by the board.

1031 Section 49. Subsection (6) of section 477.013, Florida
 1032 Statutes, is amended to read:

1033 477.013 Definitions.—As used in this chapter:

1034 (6) "Specialty" means the practice of one or more of the
 1035 following:

1036 (a) Nail specialty, which includes:

1037 1. Manicuring, or the cutting, polishing, tinting,
 1038 coloring, cleansing, adding, or extending of the nails, and
 1039 massaging of the hands. This term includes any procedure or
 1040 process for the affixing of artificial nails, except those nails
 1041 which may be applied solely by use of a simple adhesive; and—

1042 2. ~~(b)~~ Pedicuring, or the shaping, polishing, tinting, or
 1043 cleansing of the nails of the feet, and massaging or beautifying
 1044 of the feet.

1045 (b) ~~(e)~~ Facial specialty, which includes facials, or the
 1046 massaging or treating of the face or scalp with oils, creams,
 1047 lotions, or other preparations, and skin care services.

28-00505-17

2017802__

1048 (c) Full specialty, which includes manicuring, pedicuring,
 1049 and facial services, including all services as described in
 1050 paragraphs (a) and (b).

1051 Section 50. Section 477.0132, Florida Statutes, is
 1052 repealed.

1053 Section 51. Subsections (7), (8), and (9) are added to
 1054 section 477.0135, Florida Statutes, to read:

1055 477.0135 Exemptions.—

1056 (7) A license or registration is not required for a person
 1057 whose occupation or practice is confined solely to hair braiding
 1058 as defined in s. 477.013(9).

1059 (8) A license or registration is not required for a person
 1060 whose occupation or practice is confined solely to hair wrapping
 1061 as defined in s. 477.013(10).

1062 (9) A license or registration is not required for a person
 1063 whose occupation or practice is confined solely to body wrapping
 1064 as defined in s. 477.013(12).

1065 Section 52. Present paragraph (b) of subsection (7) of
 1066 section 477.019, Florida Statutes, is amended, and paragraph (c)
 1067 of that subsection is redesignated as paragraph (b), to read:

1068 477.019 Cosmetologists; qualifications; licensure;
 1069 supervised practice; license renewal; endorsement; continuing
 1070 education.—

1071 (7)

1072 ~~(b) Any person whose occupation or practice is confined~~
 1073 ~~solely to hair braiding, hair wrapping, or body wrapping is~~
 1074 ~~exempt from the continuing education requirements of this~~
 1075 ~~subsection.~~

1076 Section 53. Subsection (1) of section 477.0201, Florida

28-00505-17

2017802__

1077 Statutes, is amended, present subsections (2) through (6) of
1078 that section are redesignated as subsections (4) through (8),
1079 respectively, and new subsections (2) and (3) are added to that
1080 section, to read:

1081 477.0201 Specialty registration; qualifications;
1082 registration renewal; endorsement.—

1083 (1) A ~~Any~~ person is qualified for registration as a
1084 specialist in nail ~~any one or more of the~~ specialty practices
1085 within the practice of cosmetology under this chapter if he or
1086 she meets both of the following requirements ~~who~~:

1087 (a) Is at least 16 years of age or has received a high
1088 school diploma.

1089 (b) Has received a minimum of 150 hours of training as
1090 established by the board, which must focus primarily on
1091 sanitation and safety and include, but not be limited to, the
1092 equivalent of completion of services directly related to the
1093 practice of a nail ~~certificate of completion in a~~ specialty
1094 pursuant to s. 477.013(6)(a), ~~s. 477.013(6)~~ from one of the
1095 following:

1096 1. A school licensed pursuant to s. 477.023.

1097 2. A school licensed pursuant to chapter 1005 or the
1098 equivalent licensing authority of another state.

1099 3. A specialty program within the public school system.

1100 4. A specialty division within the Cosmetology Division of
1101 the Florida School for the Deaf and the Blind, provided the
1102 training programs comply with minimum curriculum requirements
1103 established by the board.

1104 (2) A person is qualified for registration as a specialist
1105 in facial specialty practices within the practice of cosmetology

28-00505-17

2017802__

1106 under this chapter if he or she meets both of the following
1107 requirements:

1108 (a) Is at least 16 years of age or has received a high
1109 school diploma.

1110 (b) Has received a minimum of 165 hours of training as
1111 established by the board, which must focus on sanitation and
1112 safety and include, but not be limited to, the equivalent of
1113 completion of services directly related to the practice of
1114 facial specialty pursuant to s. 477.013(6) (b), from one of the
1115 following:

1116 1. A school licensed pursuant to s. 477.023.

1117 2. A school licensed pursuant to chapter 1005 or the
1118 equivalent licensing authority of another state.

1119 3. A specialty program within the public school system.

1120 4. A specialty division within the Cosmetology Division of
1121 the Florida School for the Deaf and the Blind, provided the
1122 training programs comply with minimum curriculum requirements
1123 established by the board.

1124 (3) A person is qualified for registration as a specialist
1125 in full specialty practices within the practice of cosmetology
1126 under this chapter if he or she meets both of the following
1127 requirements:

1128 (a) Is at least 16 years of age or has received a high
1129 school diploma.

1130 (b) Has received a minimum of 300 hours of training as
1131 established by the board, which must focus primarily on
1132 sanitation and safety and include, but not be limited to, the
1133 equivalent of completion of services directly related to the
1134 practice of full specialty pursuant to s. 477.013(6) (c), from

28-00505-17

2017802__

1135 one of the following:

1136 1. A school licensed pursuant to s. 477.023.

1137 2. A school licensed pursuant to chapter 1005 or the
1138 equivalent licensing authority of another state.

1139 3. A specialty program within the public school system.

1140 4. A specialty division within the Cosmetology Division of
1141 the Florida School for the Deaf and the Blind, provided the
1142 training programs comply with minimum curriculum requirements
1143 established by the board.

1144 Section 54. Paragraph (f) of subsection (1) of section
1145 477.026, Florida Statutes, is amended to read:

1146 477.026 Fees; disposition.—

1147 (1) The board shall set fees according to the following
1148 schedule:

1149 ~~(f) For hair braiders, hair wrappers, and body wrappers,~~
1150 ~~fees for registration shall not exceed \$25.~~

1151 Section 55. Subsection (5) of section 481.203, Florida
1152 Statutes, is amended to read:

1153 481.203 Definitions.—As used in this part:

1154 (5) "Business organization" means a partnership, a limited
1155 liability company, a corporation, or an individual operating
1156 under a fictitious name ~~"Certificate of authorization" means a~~
1157 ~~certificate issued by the department to a corporation or~~
1158 ~~partnership to practice architecture or interior design.~~

1159 Section 56. Section 481.219, Florida Statutes, is amended
1160 to read:

1161 481.219 Business organization; qualifying agents

1162 ~~Certification of partnerships, limited liability companies, and~~
1163 ~~corporations.—~~

28-00505-17

2017802__

1164 (1) A licensee may ~~The practice of or the offer to practice~~
1165 ~~architecture or interior design by licensees through a~~ business
1166 organization that offers ~~corporation, limited liability company,~~
1167 ~~or partnership offering~~ architectural or interior design
1168 services to the public, or through ~~by~~ a business organization
1169 that offers ~~corporation, limited liability company, or~~
1170 ~~partnership offering~~ architectural or interior design services
1171 to the public through such licensees ~~under this part~~ as agents,
1172 employees, officers, or partners, ~~is permitted, subject to the~~
1173 ~~provisions of this section.~~

1174 (2) If a licensee or an applicant proposes to engage in the
1175 practice of architecture or interior design as a business
1176 organization, the licensee or applicant must apply to qualify
1177 the business organization ~~For the purposes of this section, a~~
1178 ~~certificate of authorization shall be required for a~~
1179 ~~corporation, limited liability company, partnership, or person~~
1180 ~~practicing under a fictitious name, offering architectural~~
1181 ~~services to the public jointly or separately. However, when an~~
1182 ~~individual is practicing architecture in her or his own name,~~
1183 ~~she or he shall not be required to be certified under this~~
1184 ~~section. Certification under this subsection to offer~~
1185 ~~architectural services shall include all the rights and~~
1186 ~~privileges of certification under subsection (3) to offer~~
1187 ~~interior design services.~~

1188 (a) An application to qualify a business organization must:

1189 1. If the business is a partnership, state the names of the
1190 partnership and its partners.

1191 2. If the business is a corporation, state the names of the
1192 corporation and its officers and directors and the name of each

28-00505-17

2017802__

1193 of its stockholders who is also an officer or a director.

1194 3. If the business is operating under a fictitious name,
1195 state the fictitious name under which it is doing business.

1196 4. If the business is not a partnership, a corporation, or
1197 operating under a fictitious name, state the name of such other
1198 legal entity and its members.

1199 (b) The board may deny an application to qualify a business
1200 organization if the applicant or any person required to be named
1201 pursuant to paragraph (a) has been involved in past disciplinary
1202 actions or on any grounds for which an individual registration
1203 or certification may be denied.

1204 (3) (a) A business organization may not engage in the
1205 practice of architecture unless its qualifying agent is a
1206 registered architect under this part. A business organization
1207 may not engage in the practice of interior design unless its
1208 qualifying agent is a registered architect or a registered
1209 interior designer under this part. A qualifying agent who
1210 terminates her or his affiliation with a business organization
1211 shall immediately notify the department of such termination. If
1212 the qualifying agent who terminates her or his affiliation is
1213 the only qualifying agent for a business organization, the
1214 business organization must be qualified by another qualifying
1215 agent within 60 days after the termination. Except as provided
1216 in paragraph (b), the business organization may not engage in
1217 the practice of architecture or interior design until it is
1218 qualified by a qualifying agent.

1219 (b) In the event a qualifying architect or interior
1220 designer ceases employment with the business organization, the
1221 executive director or the chair of the board may authorize

28-00505-17

2017802__

1222 another registered architect or interior designer employed by
1223 the business organization to temporarily serve as its qualifying
1224 agent for a period of no more than 60 days. The business
1225 organization is not authorized to operate beyond such period
1226 under this chapter absent replacement of the qualifying
1227 architect or interior designer who has ceased employment.

1228 (c) A qualifying agent shall notify the department in
1229 writing before engaging in the practice of architecture or
1230 interior design in her or his own name or in affiliation with a
1231 different business organization, and she or he or such business
1232 organization shall supply the same information to the department
1233 as required of applicants under this part ~~For the purposes of~~
1234 ~~this section, a certificate of authorization shall be required~~
1235 ~~for a corporation, limited liability company, partnership, or~~
1236 ~~person operating under a fictitious name, offering interior~~
1237 ~~design services to the public jointly or separately. However,~~
1238 ~~when an individual is practicing interior design in her or his~~
1239 ~~own name, she or he shall not be required to be certified under~~
1240 ~~this section.~~

1241 (4) All final construction documents and instruments of
1242 service which include drawings, specifications, plans, reports,
1243 or other papers or documents that involve ~~involving~~ the practice
1244 of architecture which are prepared or approved for the use of
1245 the business organization ~~corporation, limited liability~~
1246 ~~company, or partnership~~ and filed for public record within the
1247 state must ~~shall~~ bear the signature and seal of the licensee who
1248 prepared or approved them and the date on which they were
1249 sealed.

1250 (5) All drawings, specifications, plans, reports, or other

28-00505-17

2017802__

1251 papers or documents prepared or approved for the use of the
1252 business organization ~~corporation, limited liability company, or~~
1253 ~~partnership~~ by an interior designer in her or his professional
1254 capacity and filed for public record within the state must ~~shall~~
1255 bear the signature and seal of the licensee who prepared or
1256 approved them and the date on which they were sealed.

1257 ~~(6) The department shall issue a certificate of~~
1258 ~~authorization to any applicant who the board certifies as~~
1259 ~~qualified for a certificate of authorization and who has paid~~
1260 ~~the fee set in s. 481.207.~~

1261 (6) ~~(7)~~ The board shall allow ~~certify~~ an applicant to
1262 qualify one or more business organizations ~~as qualified for a~~
1263 ~~certificate of authorization~~ to offer architectural or interior
1264 design services, or to use a fictitious name to offer such
1265 services, if one of the following criteria is met ~~provided that:~~

1266 (a) One or more of the principal officers of the
1267 corporation or limited liability company, or one or more
1268 partners of the partnership, and all personnel of the
1269 corporation, limited liability company, or partnership who act
1270 in its behalf in this state as architects, are registered as
1271 provided by this part. ~~7~~ ~~or~~

1272 (b) One or more of the principal officers of the
1273 corporation or one or more partners of the partnership, and all
1274 personnel of the corporation, limited liability company, or
1275 partnership who act in its behalf in this state as interior
1276 designers, are registered as provided by this part.

1277 ~~(8) The department shall adopt rules establishing a~~
1278 ~~procedure for the biennial renewal of certificates of~~
1279 ~~authorization.~~

28-00505-17

2017802__

1280 ~~(9) The department shall renew a certificate of~~
1281 ~~authorization upon receipt of the renewal application and~~
1282 ~~biennial renewal fee.~~

1283 (7)(10) Each qualifying agent approved to qualify a
1284 business organization partnership, limited liability company,
1285 ~~and corporation certified~~ under this section shall notify the
1286 department within 30 days after ~~of~~ any change in the information
1287 contained in the application upon which the qualification
1288 ~~certification~~ is based. Any registered architect or interior
1289 designer who qualifies the business organization shall ensure
1290 ~~corporation, limited liability company, or partnership as~~
1291 ~~provided in subsection (7) shall be responsible for ensuring~~
1292 responsible supervising control of projects of the business
1293 organization entity and shall notify the department of the upon
1294 termination of her or his employment with a business
1295 organization qualified partnership, limited liability company,
1296 ~~or corporation certified~~ under this section shall notify the
1297 department of the termination within 30 days after such
1298 termination.

1299 (8)(11) A business organization is not ~~No corporation,~~
1300 ~~limited liability company, or partnership shall be relieved of~~
1301 responsibility for the conduct or acts of its agents, employees,
1302 or officers by reason of its compliance with this section.
1303 However, except as provided in s. 558.0035, the architect who
1304 signs and seals the construction documents and instruments of
1305 service is ~~shall be~~ liable for the professional services
1306 performed, and the interior designer who signs and seals the
1307 interior design drawings, plans, or specifications is ~~shall be~~
1308 liable for the professional services performed.

28-00505-17

2017802__

1309 ~~(12) Disciplinary action against a corporation, limited~~
1310 ~~liability company, or partnership shall be administered in the~~
1311 ~~same manner and on the same grounds as disciplinary action~~
1312 ~~against a registered architect or interior designer,~~
1313 ~~respectively.~~

1314 (9)~~(13)~~ ~~Nothing in This section may not shall~~ be construed
1315 to mean that a certificate of registration to practice
1316 architecture or interior design must shall be held by a business
1317 organization ~~corporation, limited liability company, or~~
1318 ~~partnership. Nothing in This section does not prohibit a~~
1319 business organization from offering ~~prohibits corporations,~~
1320 ~~limited liability companies, and partnerships from joining~~
1321 ~~together to offer architectural, engineering, interior design,~~
1322 ~~surveying and mapping, and landscape architectural services, or~~
1323 ~~any combination of such services, to the public if the business~~
1324 organization, ~~provided that each corporation, limited liability~~
1325 ~~company, or partnership otherwise meets the requirements of law.~~

1326 (10)~~(14)~~ A business organization that is qualified by a
1327 registered architect may ~~Corporations, limited liability~~
1328 ~~companies, or partnerships holding a valid certificate of~~
1329 ~~authorization to practice architecture shall be permitted to use~~
1330 ~~in their title the term "interior designer" or "registered~~
1331 interior designer" in its title. ~~designer."~~

1332 Section 57. Subsection (10) of section 481.221, Florida
1333 Statutes, is amended to read:

1334 481.221 Seals; display of certificate number.—

1335 (10) Each registered architect or interior designer must,
1336 ~~and each corporation, limited liability company, or partnership~~
1337 ~~holding a certificate of authorization, shall include her or his~~

28-00505-17

2017802__

1338 ~~license its certificate~~ number in any newspaper, telephone
1339 directory, or other advertising medium used by the registered
1340 ~~licensee architect, interior designer, corporation, limited~~
1341 ~~liability company, or partnership.~~ Each business organization
1342 must include the license number of the registered architect or
1343 interior designer who serves as the qualifying agent for that
1344 business organization in any newspaper, telephone directory, or
1345 other advertising medium used by the business organization, but
1346 is not required to display the license numbers of other
1347 registered architects or interior designers employed by the
1348 business organization ~~A corporation, limited liability company,~~
1349 ~~or partnership is not required to display the certificate number~~
1350 ~~of individual registered architects or interior designers~~
1351 ~~employed by or working within the corporation, limited liability~~
1352 ~~company, or partnership.~~

1353 Section 58. Paragraphs (a) and (c) of subsection (5) of
1354 section 481.229, Florida Statutes, are amended to read:

1355 481.229 Exceptions; exemptions from licensure.—

1356 (5) (a) ~~Nothing contained in This part~~ does not prohibit
1357 ~~shall prevent~~ a registered architect or a qualified business
1358 organization ~~partnership, limited liability company, or~~
1359 ~~corporation holding a valid certificate of authorization to~~
1360 ~~provide architectural services~~ from performing any interior
1361 design service or from using the title "interior designer" or
1362 "registered interior designer."

1363 (c) Notwithstanding any other provision of this part, a
1364 registered architect or qualified business organization
1365 certified ~~any corporation, partnership, or person operating~~
1366 ~~under a fictitious name which holds a certificate of~~

28-00505-17

2017802__

1367 authorization to provide architectural services must ~~shall~~ be
1368 qualified, without fee, ~~for a certificate of authorization to~~
1369 provide interior design services upon submission of a completed
1370 application for qualification ~~therefor~~. ~~For corporations,~~
1371 ~~partnerships, and persons operating under a fictitious name~~
1372 ~~which hold a certificate of authorization to provide interior~~
1373 ~~design services, satisfaction of the requirements for renewal of~~
1374 ~~the certificate of authorization to provide architectural~~
1375 ~~services under s. 481.219 shall be deemed to satisfy the~~
1376 ~~requirements for renewal of the certificate of authorization to~~
1377 ~~provide interior design services under that section.~~

1378 Section 59. Section 481.303, Florida Statutes, is reordered
1379 and amended to read:

1380 481.303 Definitions.—As used in this chapter, the term:

1381 (1) "Board" means the Board of Landscape Architecture.

1382 (2) "Business organization" means any partnership, limited
1383 liability company, corporation, or individual operating under a
1384 fictitious name.

1385 (4)~~(2)~~ "Department" means the Department of Business and
1386 Professional Regulation.

1387 (8)~~(3)~~ "Registered landscape architect" means a person who
1388 holds a license to practice landscape architecture in this state
1389 under the authority of this act.

1390 (3)~~(4)~~ "Certificate of registration" means a license issued
1391 by the department to a natural person to engage in the practice
1392 of landscape architecture.

1393 ~~(5) "Certificate of authorization" means a license issued~~
1394 ~~by the department to a corporation or partnership to engage in~~
1395 ~~the practice of landscape architecture.~~

28-00505-17

2017802__

1396 (5)~~(6)~~ "Landscape architecture" means professional
1397 services, including, but not limited to, the following:

1398 (a) Consultation, investigation, research, planning,
1399 design, preparation of drawings, specifications, contract
1400 documents and reports, responsible construction supervision, or
1401 landscape management in connection with the planning and
1402 development of land and incidental water areas, including the
1403 use of Florida-friendly landscaping as defined in s. 373.185,
1404 where, and to the extent that, the dominant purpose of such
1405 services or creative works is the preservation, conservation,
1406 enhancement, or determination of proper land uses, natural land
1407 features, ground cover and plantings, or naturalistic and
1408 aesthetic values;

1409 (b) The determination of settings, grounds, and approaches
1410 for and the siting of buildings and structures, outdoor areas,
1411 or other improvements;

1412 (c) The setting of grades, shaping and contouring of land
1413 and water forms, determination of drainage, and provision for
1414 storm drainage and irrigation systems where such systems are
1415 necessary to the purposes outlined herein; and

1416 (d) The design of such tangible objects and features as are
1417 necessary to the purpose outlined herein.

1418 (6)~~(7)~~ "Landscape design" means consultation for and
1419 preparation of planting plans drawn for compensation, including
1420 specifications and installation details for plant materials,
1421 soil amendments, mulches, edging, gravel, and other similar
1422 materials. Such plans may include only recommendations for the
1423 conceptual placement of tangible objects for landscape design
1424 projects. Construction documents, details, and specifications

28-00505-17

2017802__

1425 for tangible objects and irrigation systems shall be designed or
1426 approved by licensed professionals as required by law.

1427 (7) "Qualifying agent" means an owner, officer, or director
1428 of the corporation, or partner of the partnership, who is
1429 responsible for the supervision, direction, and management of
1430 projects of the business organization with which she or he is
1431 affiliated and for ensuring that responsible supervising control
1432 is being exercised.

1433 Section 60. Subsection (5) of section 481.321, Florida
1434 Statutes, is amended to read:

1435 481.321 Seals; display of certificate number.—

1436 (5) Each registered landscape architect must ~~and each~~
1437 ~~corporation or partnership holding a certificate of~~
1438 ~~authorization shall include her or his its~~ certificate number in
1439 any newspaper, telephone directory, or other advertising medium
1440 used by the registered landscape architect, corporation, or
1441 partnership. A corporation or partnership must ~~is not required~~
1442 ~~to~~ display the certificate number ~~numbers~~ of at least one
1443 officer, director, owner, or partner who is a individual
1444 registered landscape architect ~~architects~~ employed by or
1445 practicing with the corporation or partnership.

1446 Section 61. Subsection (4) of section 481.311, Florida
1447 Statutes, is amended to read:

1448 481.311 Licensure.—

1449 ~~(4) The board shall certify as qualified for a certificate~~
1450 ~~of authorization any applicant corporation or partnership who~~
1451 ~~satisfies the requirements of s. 481.319.~~

1452 Section 62. Subsection (2) of section 481.317, Florida
1453 Statutes, is amended to read:

28-00505-17

2017802__

1454 481.317 Temporary certificates.-

1455 ~~(2) Upon approval by the board and payment of the fee set~~
1456 ~~in s. 481.307, the department shall grant a temporary~~
1457 ~~certificate of authorization for work on one specified project~~
1458 ~~in this state for a period not to exceed 1 year to an out-of-~~
1459 ~~state corporation, partnership, or firm, provided one of the~~
1460 ~~principal officers of the corporation, one of the partners of~~
1461 ~~the partnership, or one of the principals in the fictitiously~~
1462 ~~named firm has obtained a temporary certificate of registration~~
1463 ~~in accordance with subsection (1).~~

1464 Section 63. Section 481.319, Florida Statutes, is amended
1465 to read:

1466 481.319 Corporate and partnership practice of landscape
1467 architecture; ~~certificate of authorization.-~~

1468 (1) The practice of or offer to practice landscape
1469 architecture by registered landscape architects registered under
1470 this part through a corporation or partnership offering
1471 landscape architectural services to the public, or through a
1472 corporation or partnership offering landscape architectural
1473 services to the public through individual registered landscape
1474 architects as agents, employees, officers, or partners, is
1475 permitted, subject to the provisions of this section, if:

1476 (a) One or more of the principal officers of the
1477 corporation, or partners of the partnership, and all personnel
1478 of the corporation or partnership who act in its behalf as
1479 landscape architects in this state are registered landscape
1480 architects; and

1481 (b) One or more of the officers, one or more of the
1482 directors, one or more of the owners of the corporation, or one

28-00505-17

2017802__

1483 or more of the partners of the partnership is a registered
1484 landscape architect and has applied to be the qualifying agent
1485 for the business organization; ~~and~~

1486 ~~(c) The corporation or partnership has been issued a~~
1487 ~~certificate of authorization by the board as provided herein.~~

1488 (2) All documents involving the practice of landscape
1489 architecture which are prepared for the use of the corporation
1490 or partnership must ~~shall~~ bear the signature and seal of a
1491 registered landscape architect.

1492 (3) A landscape architect applying to practice in the name
1493 of a ~~An applicant~~ corporation must ~~shall~~ file with the
1494 department the names and addresses of all officers and board
1495 members of the corporation, including the principal officer or
1496 officers, duly registered to practice landscape architecture in
1497 this state and, also, of all individuals duly registered to
1498 practice landscape architecture in this state who shall be in
1499 responsible charge of the practice of landscape architecture by
1500 the corporation in this state. A landscape architect applying to
1501 practice in the name of a ~~An applicant~~ partnership must ~~shall~~
1502 file with the department the names and addresses of all partners
1503 of the partnership, including the partner or partners duly
1504 registered to practice landscape architecture in this state and,
1505 also, of an individual or individuals duly registered to
1506 practice landscape architecture in this state who shall be in
1507 responsible charge of the practice of landscape architecture by
1508 said partnership in this state.

1509 (4) Each landscape architect qualifying a partnership or
1510 ~~and~~ corporation ~~licensed~~ under this part must ~~shall~~ notify the
1511 department within 1 month of any change in the information

28-00505-17

2017802__

1512 contained in the application upon which the license is based.
1513 Any landscape architect who terminates her or his ~~or her~~
1514 employment with a partnership or corporation licensed under this
1515 part shall notify the department of the termination within 1
1516 month.

1517 ~~(5) Disciplinary action against a corporation or~~
1518 ~~partnership shall be administered in the same manner and on the~~
1519 ~~same grounds as disciplinary action against a registered~~
1520 ~~landscape architect.~~

1521 (5)~~(6)~~ Except as provided in s. 558.0035, the fact that a
1522 registered landscape architect practices landscape architecture
1523 through a corporation or partnership as provided in this section
1524 does not relieve the landscape architect from personal liability
1525 for her or his ~~or her~~ professional acts.

1526 Section 64. Subsection (5) of section 481.329, Florida
1527 Statutes, is amended to read:

1528 481.329 Exceptions; exemptions from licensure.—

1529 (5) This part does not prohibit any person from engaging in
1530 the practice of landscape design, as defined in s. 481.303(6) ~~s.~~
1531 ~~481.303(7)~~, or from submitting for approval to a governmental
1532 agency planting plans that are independent of, or a component
1533 of, construction documents that are prepared by a Florida-
1534 registered professional. Persons providing landscape design
1535 services shall not use the title, term, or designation
1536 "landscape architect," "landscape architectural," "landscape
1537 architecture," "L.A.," "landscape engineering," or any
1538 description tending to convey the impression that she or he is a
1539 landscape architect unless she or he is registered as provided
1540 in this part.

28-00505-17

2017802__

1541 Section 65. Section 492.111, Florida Statutes, is amended
1542 to read:

1543 492.111 Practice of professional geology by a firm,
1544 corporation, or partnership; ~~certificate of authorization.~~—The
1545 practice of, or offer to practice, professional geology by
1546 individual professional geologists licensed under the provisions
1547 of this chapter through a firm, corporation, or partnership
1548 offering geological services to the public through individually
1549 licensed professional geologists as agents, employees, officers,
1550 or partners thereof is permitted subject to the provisions of
1551 this chapter, if ~~provided that~~:

1552 (1) At all times that it offers geological services to the
1553 public, the firm, corporation, or partnership is qualified by
1554 ~~has on file with the department the name and license number of~~
1555 one or more individuals who hold a current, active license as a
1556 professional geologist in the state and are serving as a
1557 geologist of record for the firm, corporation, or partnership. A
1558 geologist of record may be any principal officer or employee of
1559 such firm or corporation, or any partner or employee of such
1560 partnership, who holds a current, active license as a
1561 professional geologist in this state, or any other Florida-
1562 licensed professional geologist with whom the firm, corporation,
1563 or partnership has entered into a long-term, ongoing
1564 relationship, as defined by rule of the board, to serve as one
1565 of its geologists of record. ~~It shall be the responsibility of~~
1566 ~~the firm, corporation, or partnership and~~ The geologist of
1567 record shall ~~to~~ notify the department of any changes in the
1568 relationship or identity of that geologist of record within 30
1569 days after such change.

28-00505-17

2017802__

1570 ~~(2) The firm, corporation, or partnership has been issued a~~
1571 ~~certificate of authorization by the department as provided in~~
1572 ~~this chapter. For purposes of this section, a certificate of~~
1573 ~~authorization shall be required of any firm, corporation,~~
1574 ~~partnership, association, or person practicing under a~~
1575 ~~fictitious name and offering geological services to the public;~~
1576 ~~except that, when an individual is practicing professional~~
1577 ~~geology in her or his own name, she or he shall not be required~~
1578 ~~to obtain a certificate of authorization under this section.~~
1579 ~~Such certificate of authorization shall be renewed every 2~~
1580 ~~years.~~

1581 ~~(3)~~ All final geological papers or documents involving the
1582 practice of the profession of geology which have been prepared
1583 or approved for the use of such firm, corporation, or
1584 partnership, for delivery to any person for public record with
1585 the state, shall be dated and bear the signature and seal of the
1586 professional geologist or professional geologists who prepared
1587 or approved them.

1588 (3)~~(4)~~ Except as provided in s. 558.0035, the fact that a
1589 licensed professional geologist practices through a corporation
1590 or partnership does not relieve the registrant from personal
1591 liability for negligence, misconduct, or wrongful acts committed
1592 by her or him. The partnership and all partners are jointly and
1593 severally liable for the negligence, misconduct, or wrongful
1594 acts committed by their agents, employees, or partners while
1595 acting in a professional capacity. Any officer, agent, or
1596 employee of a corporation is personally liable and accountable
1597 only for negligent acts, wrongful acts, or misconduct committed
1598 by her or him or committed by any person under her or his direct

28-00505-17

2017802__

1599 supervision and control, while rendering professional services
1600 on behalf of the corporation. The personal liability of a
1601 shareholder of a corporation, in her or his capacity as
1602 shareholder, may be no greater than that of a shareholder-
1603 employee of a corporation incorporated under chapter 607. The
1604 corporation is liable up to the full value of its property for
1605 any negligent acts, wrongful acts, or misconduct committed by
1606 any of its officers, agents, or employees while they are engaged
1607 on behalf of the corporation in the rendering of professional
1608 services.

1609 ~~(5) The firm, corporation, or partnership desiring a~~
1610 ~~certificate of authorization shall file with the department an~~
1611 ~~application therefor, upon a form to be prescribed by the~~
1612 ~~department, accompanied by the required application fee.~~

1613 ~~(6) The department may refuse to issue a certificate of~~
1614 ~~authorization if any facts exist which would entitle the~~
1615 ~~department to suspend or revoke an existing certificate of~~
1616 ~~authorization or if the department, after giving persons~~
1617 ~~involved a full and fair hearing, determines that any of the~~
1618 ~~officers or directors of said firm or corporation, or partners~~
1619 ~~of said partnership, have violated the provisions of s. 492.113.~~

1620 Section 66. Section 492.104, Florida Statutes, is amended
1621 to read:

1622 492.104 Rulemaking authority.—The Board of Professional
1623 Geologists may ~~has authority to~~ adopt rules pursuant to ss.
1624 120.536(1) and 120.54 to implement this chapter. Every licensee
1625 shall be governed and controlled by this chapter and the rules
1626 adopted by the board. The board may establish ~~is authorized to~~
1627 ~~set~~, by rule, fees for application, examination, ~~certificate of~~

28-00505-17

2017802__

1628 ~~authorization,~~ late renewal, initial licensure, and license
1629 renewal. These fees may ~~should~~ not exceed the cost of
1630 implementing the application, examination, initial licensure,
1631 and license renewal or other administrative process and are
1632 ~~shall be~~ established as follows:

1633 (1) The application fee may ~~shall~~ not exceed \$150 and is
1634 ~~shall be~~ nonrefundable.

1635 (2) The examination fee may ~~shall~~ not exceed \$250, and the
1636 fee may be apportioned to each part of a multipart examination.
1637 The examination fee is ~~shall be~~ refundable in whole or part if
1638 the applicant is found to be ineligible to take any portion of
1639 the licensure examination.

1640 (3) The initial license fee may ~~shall~~ not exceed \$100.

1641 (4) The biennial renewal fee may ~~shall~~ not exceed \$150.

1642 (5) ~~The fee for a certificate of authorization shall not~~
1643 ~~exceed \$350 and the fee for renewal of the certificate shall not~~
1644 ~~exceed \$350.~~

1645 ~~(6)~~ The fee for reactivation of an inactive license may
1646 ~~shall~~ not exceed \$50.

1647 ~~(6)~~ ~~(7)~~ The fee for a provisional license may ~~shall~~ not
1648 exceed \$400.

1649 ~~(7)~~ ~~(8)~~ The fee for application, examination, and licensure
1650 for a license by endorsement is ~~shall be~~ as provided in this
1651 section for licenses in general.

1652 Section 67. Subsection (4) of section 492.113, Florida
1653 Statutes, is amended to read:

1654 492.113 Disciplinary proceedings.—

1655 (4) The department shall reissue the license of a
1656 disciplined professional geologist ~~or business~~ upon

28-00505-17

2017802__

1657 certification by the board that the disciplined person has
 1658 complied with ~~all of~~ the terms and conditions set forth in the
 1659 final order.

1660 Section 68. Section 492.115, Florida Statutes, is amended
 1661 to read:

1662 492.115 Roster of licensed professional geologists.—A
 1663 roster showing the names and places of business or residence of
 1664 all licensed professional geologists and all properly qualified
 1665 firms, corporations, or partnerships practicing holding
 1666 ~~certificates of authorization to practice~~ professional geology
 1667 in the state shall be prepared annually by the department. A
 1668 copy of this roster must be made available to ~~shall be~~
 1669 ~~obtainable by~~ each licensed professional geologist and each
 1670 firm, corporation, or partnership qualified by a professional
 1671 geologist holding a certificate of authorization, and copies
 1672 thereof shall be placed on file with the department.

1673 Section 69. Subsection (1) of section 548.017, Florida
 1674 Statutes, is amended to read:

1675 548.017 Participants, managers, and other persons required
 1676 to have licenses.—

1677 (1) A participant, manager, trainer, second, ~~timekeeper,~~
 1678 referee, judge, ~~announcer,~~ physician, matchmaker, or promoter
 1679 must be licensed before directly or indirectly acting in such
 1680 capacity in connection with any match involving a participant. A
 1681 physician approved by the commission must be licensed pursuant
 1682 to chapter 458 or chapter 459, must maintain an unencumbered
 1683 license in good standing, and must demonstrate satisfactory
 1684 medical training or experience in boxing, or a combination of
 1685 both, to the executive director before working as the ringside

28-00505-17

2017802__

1686 physician.

1687 Section 70. Paragraph (i) of subsection (2) of section
1688 548.003, Florida Statutes, is amended to read:

1689 548.003 Florida State Boxing Commission.—

1690 (2) The Florida State Boxing Commission, as created by
1691 subsection (1), shall administer the provisions of this chapter.
1692 The commission has authority to adopt rules pursuant to ss.
1693 120.536(1) and 120.54 to implement the provisions of this
1694 chapter and to implement each of the duties and responsibilities
1695 conferred upon the commission, including, but not limited to:

1696 ~~(i) Designation and duties of a knockdown timekeeper.~~

1697 Section 71. This act shall take effect October 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

802

Bill Number (if applicable)

Topic Delicensing Auctioneers

Amendment Barcode (if applicable)

Name Angela Johnson

Job Title Florida Auctioneers Assoc. - Director

Address Po Box 1088

Phone 352 672 2838

Street

Chiefland FL 32644

City

State

Zip

Email angela@florida
auctioneers.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Auctioneers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

802

Bill Number (if applicable)

Topic Regulated Professions

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 South Adams St.

Phone 222-4082

Street

Tallahassee

City

FL

State

32301

Zip

Email samantha@frf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Beauty Industry Council of the Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/14

Meeting Date

802

Bill Number (if applicable)

Topic Barbering/Nails/Facial Hours

Amendment Barcode (if applicable)

Name Monica Rodriguez

Job Title _____

Address 403 E Park Avenue

Phone 850 766-6287

Street

Tallahassee FL 32303

City

State

Zip

Email monica@ballardfl.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Cosmetology & Technical Schools

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/08/2017

Meeting Date

SB 802

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title COALITIONS DIRECTOR

Address 200 W COLLEGE AVE

Street

Phone 786.260.9283

TALLAHASSEE FL.

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing THE LIBRE INITIATIVE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-8-17

Meeting Date

SB 802

Bill Number (if applicable)

Topic SB 802 - BARBERING, SHEDS & NAILS

Amendment Barcode (if applicable)

Name GREGORY H. JONES

Job Title PRESIDENT, EDUCATION ADMINISTRATION

Address 8813 WESTERN WAY

Phone 904 / 728-2336

Street

JACKSONVILLE FL 32256

City

State

Zip

Email gjones@sunstate.edu

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing SUNSTATE ACADEMY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

82

Bill Number (if applicable)

Topic Cosmetology

Amendment Barcode (if applicable)

Name Robert Rosenberg

Job Title President ARTISTIC NAILS & Beauty Academy

Address 4951 E Adams Dr.

Phone 813-654-4529

Tampa
City

FL
State

33605
Zip

Email robert@cutclassnow.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FACTS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 802
Bill Number (if applicable)

Meeting Date _____

Topic SB 802

Amendment Barcode (if applicable) _____

Name Chad Johnson

Job Title Auctioneer

Address 550 NE 130th St

Phone 352-535-5320

Trenton Fl 32693
City State Zip

Email Cjauctioneer@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Auction Assoc. Auction Profession

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17
Meeting Date

SB 802
Bill Number (if applicable)

Topic REDUCTION OF BARBERING, HOURS

Amendment Barcode (if applicable)

Name DAN WASHBURN

Job Title PRESIDENT

Address 1750 W. BROADWAY ST. #120
Street

Phone 407-256-5618

EVIEUDO FL 32765
City State Zip

Email DAN.WASHBURN@GREATCLIPS.NET

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREAT CLIPS 200 SALONS IN FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

802
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee

FL

State

Zip

Email ahosek@afphq.org

City

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

802

Bill Number (if applicable)

Topic Dereq Barberins / Nails / Facial

Amendment Barcode (if applicable)

Name Mez Varol

Job Title Owner International Academy

Address 2550 South Ridgewood Avenue
Street

Phone 386-405-2111

South Daytona, FL 32119
City State Zip

Email mez@intl-academy.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Cosmetology and Technical Schools

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/2017
Meeting Date

802
Bill Number (if applicable)

Topic Barbering

Amendment Barcode (if applicable)

Name CURTIS AUSTIN

Job Title EXEC DIRECTOR FA PSC

Address 1018 Thomsville Rd. Suite 102A
Street

Phone 850-577-3139

Tallahassee FL 32303
City State Zip

Email Curtis@FAPSC.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Assoc of Postsecondary Schools & Colleges

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-8-17
Meeting Date

SB 802
Bill Number (if applicable)

Topic DEREGULATING AUCTIONEERS

Amendment Barcode (if applicable)

Name DON COTTON

Job Title AUCTIONEER

Address P.O. BOX 12007
Street

Phone 850.380.7413

PENSACOLA FL 32591
City State Zip

Email dcotton308@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Ft Auctioneers Auction

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

SB 802

Bill Number (if applicable)

Topic SB 802 - Regulated Professions & Occupations

Amendment Barcode (if applicable)

Name Tim Vaccaro

Job Title Deputy Secretary of Professions

Address 2601 Blair Stone Road

Phone (850) 487-4827

Street

Tallahassee

City

FL

State

32399

Zip

Email tim.vaccaro@myfloridalicense.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing DBPR

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



**SENATOR KATHLEEN
PASSIDOMO**
28th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Healthy Policy, *Vice Chair*
Appropriations Subcommittee on Health
and
Human Services
Appropriations Subcommittee on
Transportation,
Tourism, and Economic Development
Commerce and Tourism

SELECT COMMITTEE:

Joint Select Committee on Collective
Bargaining

JOINT COMMITTEE:

Joint Legislative Auditing Committee

February 24, 2017

The Honorable Travis Hutson, Chair
Senate Committee on Regulated Industries
Florida Senate
330 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Hutson:

Senate Bill 802, Regulated Professions and Occupations, has been referred to the Committee on Regulated Industries. I would appreciate the placing of this bill on the committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

Kathleen C. Passidomo

Cc: Ross McSwain, Staff Director
Lynn Koon, Committee Assistant

REPLY TO:

- 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



Tax Id# 59-27223217

The Florida Auctioneers Association is strongly opposed to SB 802- the complete deregulation of the Auction Industry and it's education and license requirements. The Auctioneer *has* full fiduciary responsibility, including undivided loyalty, with no undisclosed conflicts of interest. Clients of current Florida licensed auctioneers are legally protected by strict fiduciary rules, unlike most other professions and industries. The Auction professional often takes possession of equipment, estates, collections, personal property, etc. and is charged with liquidating those assets in a manner in which they receive optimum exposure for price discovery. The Auctioneer is also required to maintain inventories, provide accounting of assets, keep and manage an Escrow account, and pay clients in a timely manner. They are prohibited from comingling funds of Escrow and required to disperse accrued interest when earned. The primary responsibility of a licensed auctioneer is to protect the assets of their client.

Facts About the Auction Industry



What does this Mean for Legislators?

- *The Auction Industry is a Six plus Billion dollar Industry*
- *Thirty one States require Auctioneers to be Licensed*
- *Nineteen States have Auction license reciprocity with Florida*
- *Licensed Auctioneers collect Sales Tax in Florida*
- *Auctioneers have a Fiduciary relationship with Clients*
- *Auctioneers are typically entrusted to handle and properly distribute large sums of money that are the proceeds of Auction sales*
- *Auctioneers commonly handle, but are not limited to: commercial, industrial, residential and agricultural real estates, autos, intellectual property, equipment, art, antiques, collectibles, jewelry, business liquidations, business inventories, bankruptcy sales and other personal property.*
- *Title XXXII Regulation of Professions and Occupations, Chapter 468 Miscellaneous Professions and Occupations, Part VI – Auctioneers (ss 468.381 – 468.399) of the Florida Statutes, was enacted to, “to protect the public by creating a board to regulate auctioneers, apprentices, and auction businesses and by requiring a license to operate.”*

The Auction Industry has a large economic impact in Florida.

Florida is not alone in recognizing the need for licensure in the Auction Industry.

Florida Auctioneers can conduct business in other license states by virtue of their Florida License.

Regulation is easier through licensure.

Fiduciary Agents are held to strict performance UCC and to higher standard in Common Law. Clients are owed undivided loyalty.

The Florida Auction Law requires the escrow of Auction proceeds and establishes timelines for distribution – protecting the public.

The Auction Industry crosses into many other Florida Industries. Legislation can, and does protect these other Florida Industries as well as the public at large. Regulation ensures the public welfare is enhanced through education requirements in fiduciary responsibility, escrow management, inventory control, and advertising knowledge.

Chapter 468, ss. 468.381 – 468.399 provides for the regulation of the Auction Industry and offers a recourse for the public to recoup losses associated with fraudulent or illegal practices
Now more than ever, it is important to consider the safety of the public in regards to the Auction Industry.

For Information regarding the Auction Profession or the Auction Industry in Florida, please feel free to contact our association director, Angela Johnson or a member of our Legislative Committee.

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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: CS/SB 818

INTRODUCER: Senator Hutson

SUBJECT: Timeshares

DATE: March 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 818 amends to ch. 721, F.S. the Florida Vacation Plan and Timesharing Act (act), which establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers. The bill:

- Revises the term “interestholder” with respect to a multisite timeshare plan governed by Part II of the act;
- Revises requirements for instruments that establish or govern a component site property regime, including the requirement to issue or provide certain documents to creditors;
- Revises requirements for terminations of timeshare plans;
- Revises requirements for extensions of timeshare plans, which apply to all timeshare properties in the state;
- Allows reasonable termination expenses to be paid pro rata by owners of former timeshare properties; and
- Amends requirements for voting upon an extension of a term of a timeshare plan, including meeting notices, voter eligibility, proxies, and quorum requirements.

The bill has no fiscal impact on state government. See Section V, Fiscal Impact Statement.

The bill is effective upon becoming law.

II. Present Situation:

A timeshare interest is a form of ownership of real and personal property.¹ In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property.

The Florida Vacation Plan and Timesharing Act, ch. 721, F.S., establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.² Chapter 721, F.S., applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least three years in which the accommodations and facilities are located within this state or offered within this state.³ Part I of ch. 721, F.S., relates to vacation plans and timesharing, and Part II of ch. 721, F.S., relates to multisite vacation and timeshare plans that are also known as vacation clubs.

According to information provided by the American Resort Development Association (ARDA), Florida had the greatest number of the 1,527 timeshare resorts in the United States in 2015.⁴

Definitions

A timeshare plan is any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, where a purchaser, for consideration, receives ownership rights in or a right to use accommodations and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.⁵ The term includes both personal property timeshare and real property timeshare plans.⁶

Each timeshare plan must have a managing entity that must be the developer, a separate manager or management firm, or an owners' association. The managing entity operates or maintains the timeshare plan.⁷

A timeshare unit is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.⁸

A "timeshare estate" is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.⁹ The

¹ See s. 721.05(36), F.S.

² Section 721.02(2) and (3), F.S.

³ Section 721.03, F.S.

⁴ See <http://www.arda.org/arda/news-information/default.aspx?id=5575&libID=5594> (last visited Mar. 3, 2017).

⁵ Section 721.05(39), F.S.

⁶ A "personal property timeshare plan," is a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property; and a "real property timeshare plan," is a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.

⁷ Section 721.13(1)(a), F.S. The duties of a managing entity are detailed in s. 721.13(3), F.S.

⁸ See ss. 721.05(41) and 718.103(26), F.S.

⁹ Section 721.05(34), F.S.

term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary's spouse or other dependent. A "timeshare license" is the right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate.¹⁰ A "timeshare interest" is a timeshare estate, a personal property timeshare interest, or a timeshare license.¹¹

Multisite Timeshare Plans

A "multisite timeshare plan" is any method, arrangement, or procedure by which a purchaser obtains a recurring right to use and occupy accommodations or facilities of more than one component site through use of a reservation system.¹² The reservation system requires purchasers to compete with other purchases in the same multisite timeshare plan.¹³ There are two different types of multisite timeshare plans, nonspecific and specific.

A "nonspecific multisite timeshare plan" is a multisite timeshare plan *containing timeshare licenses or personal property timeshare interests*, in which a purchaser receives a right to use all of the accommodations and facilities, if any, of the multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.¹⁴

A "specific multisite timeshare plan" is a multisite timeshare plan *containing timeshare licenses or personal property timeshare interests*, in which a purchaser receives a specific right to use accommodations and facilities, if any, at one component site of a multisite timeshare plan, together with use rights in the other accommodations and facilities of the multisite timeshare plan created by or acquired through the reservation system.¹⁵

Substitutions and Deletions for Multisite Timeshare Plans

Section 721.552(2), F.S., permits substitutions of accommodations and facilities for nonspecific multisite timeshare plans that are "substantially similar" to the existing accommodations and facilities. Substitutions are limited to no more than 25 percent of the available accommodations at a given component site per year. Before a substitution occurs, notice must be provided to all the purchasers of the timeshare plan. However, under limited circumstances, a managing entity may substitute all accommodations in a given year if a written plan of substitution has been provided to each purchaser of the timeshare plan and approved by a majority of purchasers and a majority of the board of administration.¹⁶

Section 721.52(7), F.S., defines a "specific multisite timeshare plan" to mean:

¹⁰ Section 721.05(37), F.S.

¹¹ Section 721.05(36), F.S.

¹² Section 721.52(4), F.S. The purchaser may or may not be able to elect to stop participating in the multisite timeshare plan.

¹³ Section 721.52(6), F.S.

¹⁴ Section 721.52(5), F.S.

¹⁵ Section 721.52(7), F.S.

¹⁶ Section 721.552(2), F.S.

“a multisite timeshare plan *containing timeshare licenses or personal property timeshare interests*, with respect to which a purchaser receives a specific right to use accommodations and facilities, if any, at one component site of a multisite timeshare plan, together with use rights in the other accommodations and facilities of the multisite timeshare plan created by or acquired through the reservation system.” [Emphasis added.]

According to the American Resort Development Association (ARDA),¹⁷ which represents the vacation ownership and resort development industries (timeshares), there has been a recent development in nonspecific timeshare *estate* plans in which the purchaser receives a timeshare estate in a trust and one in a specific component site and such may not be clearly consistent with definitions for specific and nonspecific multisite timeshare plans.

A timeshare plan developer must file a public offering statement and the required exhibits with the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation, prior to offering the timeshare plan to the public.¹⁸

For each timeshare plan, the developer must provide for a managing entity, which must be the developer, a separate manager or management firm, or an owners' association.¹⁹ The public offering statement must include an estimated operating budget for the timeshare plan and a schedule of the purchaser's expenses to be paid to the timeshare plan and the managing entity.²⁰ A common expense to be paid to the managing entity is a reserve for deferred maintenance and capital expenditures.

III. Effect of Proposed Changes:

SB 818 revises the term “interestholder” in s. 721.05, (21), F.S., to exclude certain persons that have interests in a multisite timeshare plan that has a component site that is also part of a single-site timeshare plan, condominium, or other property regime (component site property regime). Those excluded as interestholders in a multisite timeshare plan with a component site property regime (the non-interestholders), unless the timeshare interest, timeshare unit, or other unit is “specifically subject to, or otherwise dedicated to, the multisite timeshare plan,” are:

- A developer;
- An owner of the underlying fee or personal property;
- A mortgagee, judgment creditor, or other lienor; or
- Any other person having an interest in or lien or encumbrance against a timeshare interest in a single-site timeshare plan, or an interest in or lien or encumbrance against a timeshare unit or other unit in a condominium or property regime. (Emphasis added.)

¹⁷ For more information about ARDA, see <http://www.arda.org/who-we-are/default.aspx> (last visited Mar. 3, 2017).

¹⁸ Section 721.07, F.S.

¹⁹ Section 721.13(1)(a), F.S. The duties of a managing entity are detailed in s. 721.13(3), F.S.,

²⁰ Section 721.07(5)(t)3., F.S.

The bill expresses legislative intent that the revision of the term “interestholder” is a clarification of existing law; those who are interestholders under current law are described nearly identically to those proposed to be classified as non-interestholders:

- A developer;
- An owner of the underlying fee or personal property;
- A mortgagee, judgment creditor, or other lienor; or
- Any other person having an interest in or lien or encumbrance against a timeshare interest in a single-site timeshare plan, or an interest in or lien or encumbrance against the accommodations or facilities of the timeshare plan. (Emphasis added.)

The revision to the term “interestholder” creates a distinction between persons based on the type of timeshare plan they have developed, owned, provided financing for, are owed monies by, or against which they have an interest, lien, or encumbrance. This distinction impacts voting and other rights related to timeshare plans.

The bill amends s. 721.08, F.S., concerning escrow accounts, non-disturbance instruments, alternate security arrangements, and transfer of legal title; the bill expresses legislative intent that the revision is a clarification of existing law.

For a component site property regime, certain documents that establish or govern a component site property regime are deemed not to be an encumbrance²¹ under ch. 721, F.S., the Florida Vacation Plan and Timesharing Act (act), including a:

- Timeshare instrument;
- Declaration of condominium; or
- Other instrument.

The bill provides that a document that establishes or governs a component site property regime, in addition to not being an encumbrance, does not create a requirement for a “nondisturbance and notice to creditors instrument” under s. 721.08, F.S. For each accommodation or facility of a multisite timeshare plan involving a component site property regime, a “subordination and notice to creditors instrument” is not required from the managing entity, owners’ association, or any other person. Under current law, the developer of such accommodation or facility must provide the division evidence that each interestholder has executed and recorded a subordination and notice to creditors instrument in the public records where the accommodation or facility is located.²²

The bill amends s. 721.125, F.S., which currently relates to the extension and termination of timeshare plans, so that the section will deal only with the termination of timeshare plans. If the timeshare property is managed by an owners’ association that is separate from any underlying condominium, cooperative, or homeowners’ association, termination of a timeshare plan does not change the corporate status of the owners’ association.

²¹ The term “encumbrance” is defined in ch. 679, F.S., Uniform Commercial Code: Secured Transactions, as a right in real property, other than an ownership interest, including mortgages and other liens. *See* s. 679.1021(1)(ff), F.S.

²² *See* s. 721.53(1), F.S.

However, under the bill, the owners' association existence continues only for these limited purposes:

- Concluding its affairs;
- Prosecuting and defending actions by or against it;
- Collecting and discharging obligations;
- Disposing of and conveying its property;
- Collecting and dividing its assets; and
- Otherwise complying with s. 721.125(3), F.S.

After termination of a timeshare plan, the bill provides that the board of administration of the owners' association (board) serves as the termination trustee. In that fiduciary capacity, the board may bring a partition action²³ on behalf of the tenants in common²⁴ in each former timeshare property or may sell the former timeshare property in any manner and to any person approved by a majority of all the tenants in common. The termination trustee also has all other powers reasonably necessary to accomplish the partition or sale, including the power to maintain the property while the partition action or sale is pending, and must adopt reasonable procedures to implement the partition or sale and comply with these requirements.

The bill provides that all reasonable expenses incurred by the termination trustee relating to the performance of the trustee's duties, including reasonable fees of attorneys and other professionals, must be paid by the tenants in common, in proportion to their ownership interests. Many timeshare plans do not address the handling of costs of termination.²⁵

Additionally, the bill provides that termination of a timeshare plan in a timeshare condominium or timeshare cooperative, when the underlying condominium or cooperative is not simultaneously terminated, requires the designation of a voting representative for the unit, and the filing of a voting certificate with the underlying condominium or cooperative association. The designation is made by a majority of the tenants in common in each former timeshare unit who are present and voting in person or by proxy at a meeting of such tenants in common. The meeting is conducted by the termination trustee or by the board of administration of the condominium or cooperative association if such association managed the former timeshare property. The voting representative may vote on all matters at meetings of the condominium or cooperative association, including termination of the condominium or cooperative.

The bill creates s. 721.1255, F.S., to separately address extensions of timeshare plans,²⁶ and expresses legislative intent, including that:

- Most older timeshare properties in Florida are based on a condominium structure, and the termination dates set forth in the timeshare instruments for those properties are approaching.

²³ The term "partition" is used in ch. 64, F.S., for the dividing of interests in real and personal property by a court, or if partition cannot be made without prejudice to the owners, by a court-ordered sale at public auction to the highest bidder. *See* ss. 64.051, 64.071, and 64.091, F.S.

²⁴ The term "tenants in common" is a type of simultaneous ownership of real property by two or more parties. *See* <http://legal-dictionary.thefreedictionary.com/tenancy+in+common> (last visited Mar. 3, 2017).

²⁵ Conversation with representatives of the American Resort Development Association (ARDA)(Mar. 3, 2017).

²⁶ All provisions within s. 721.125, F.S., which address the extension of timeshare plans, are deleted in the bill.

- Many older timeshare properties located in Florida have been well-maintained, and continue to be financially supported, used, and enjoyed by their owners, exchangers, guests, renters, and others.
- To preserve the continued use, enjoyment, tax values, and overall viability of these timeshare properties, the public policy of Florida requires the creation of a statutory method to enable the owners of these timeshare properties to extend the terms of their timeshare plans, notwithstanding contrary provisions in their timeshare instruments which may create uncertainty for purchasers, prospective purchasers, and lenders, and which may discourage the ongoing maintenance, refurbishment, and improvement of these timeshare properties.

The bill revises the minimum required vote and the eligibility of voting interests required for an extension of a term of a timeshare plan. Unless the timeshare instrument specifically provides a lower percentage, the vote or written consent, or both, *of at least 66 percent of all eligible voting interests present in person or by proxy at a duly noticed, called, and constituted meeting of the owners' association* is required. (Currently, the requirement under s. 721.125(1), F.S., is that 60 percent of all voting interests must authorize an extension of a timeshare plan, unless the timeshare instrument provides otherwise.) The bill provides that the meeting of the owners' association may be held "at any time." The bill provides that if the term of a timeshare plan is extended, all rights, privileges, duties, and obligations created under applicable law or the timeshare instrument continue in full force to the same extent as if the extended termination date of the timeshare plan were the original termination date of the timeshare plan.

The bill revises the quorum requirements for a vote to extend the term of a timeshare plan. Unless the timeshare instrument specifically provides for a lower quorum, the quorum for the owners' association meeting is 50 percent of all eligible voting interests in the timeshare plan. Under current law, unless the articles of incorporation, the bylaws, or the provisions of ch. 721, F.S. provide for a higher quorum requirement, the percentage of voting interests required to make decisions and to constitute a quorum for a members' meeting of a timeshare condominium²⁷ or owners' association is 15 percent of the voting interests.

The bill provides that a proxy for a vote to extend a timeshare plan pursuant to this section may be valid for a period of up to three years and is revocable unless it states that it is irrevocable. The duration and revocability of proxies for voting on matters respecting timeshare plans are not addressed in current law.

The bill provides that the board of administration of the owners' association may determine that any person or entity holding a voting interest who is delinquent in the payment of more than two years of assessments is ineligible to vote on any extension of the timeshare plan unless the delinquency is paid in full before the vote.

The bill restricts the effectiveness of a proposed extension for a component site of a multisite timeshare plan located in Florida. If an extension vote or consent is proposed for such a component site, the extension is effective only if the extension is approved by the person

²⁷ A "timeshare condominium" is a timeshare plan that is subject to the provisions of both ch. 718, F.S., regulating condominiums, and ch. 721, F.S., regulating vacation and timeshare plans.

authorized to make additions or substitutions of accommodations and facilities pursuant to the timeshare instrument.

The revised procedures for extension of timeshare plans apply to all timeshare properties in Florida. Under current law, unless the timeshare instrument provides otherwise, the provisions relating to extensions or terminations of timeshare plans²⁸ apply only to a timeshare plan in existence for at least 25 years as of the effective date of the termination or extension vote or consent, or both, of *60 percent of all voting interests* in the timeshare plan. The vote or written consent may extend or terminate the timeshare plan at any time.²⁹

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Department of Business and Professional Regulation (DBPR) notes there is no fiscal impact to the private sector.³⁰

C. Government Sector Impact:

The Department of Business and Professional Regulation (DBPR) notes there is no fiscal impact to state government.³¹

²⁸ See s. 721.125(3), F.S.

²⁹ See s. 721.151(1), F.S.

³⁰ See *2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation)* for SB 818, dated March 2, 2017 (on file with Senate Committee on Regulated Industries) at page 4.

³¹ *Id.*

VI. Technical Deficiencies:

Section 4 of the bill creates s. 721.1255(2)(d), F.S., which provides that the board of administration of the owners' association may determine that a person holding a voting interest who is delinquent in paying more than two years of assessments is ineligible to vote on an extension of the timeshare plan, unless the delinquency is paid in full "before the vote." The bill does not address the timing and method for handling of payments to eliminate such a deficiency. See lines 192-197.

VII. Related Issues:

The bill revises provisions affecting persons who have or may have an interest in or a lien or encumbrance against a timeshare interest, or other unit that is subject to a timeshare plan and provisions related to the termination of existing timeshare plans. Therefore, these provisions may implicate constitutional concerns relating to impairment of contract.³²

In *Pomponio v. Claridge of Pompano Condominium, Inc.*,³³ the Florida Supreme court stated that some degree of flexibility has developed over the last century in interpreting the contract clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The Florida Supreme Court invalidated a statute, as an unconstitutional impairment of contract, which required the deposit of rent into a court registry during litigation involving obligations under a contract lease. The court set forth several factors to be considered in balancing whether a state law has in fact operated as a substantial impairment of a contractual relationship, stating "[t]he severity of the impairment measures the height of the hurdle the state legislation must clear."³⁴

The court stated that if there is minimal alteration of contractual obligations, the inquiry may end at its first stage. Severe impairment pushes the inquiry into a careful examination of the nature and purpose of the state legislation. The factors to be considered are whether:

- The law was enacted to deal with a broad, generalized economic or social problem;
- The law operates in an area that was already subject to state regulation at the time the contract was entered into; and
- The effect on the contractual relationships is temporary, or whether it is severe, permanent, immediate, and retroactive.³⁵

In *United States Fidelity & Guaranty Co. v. Department of Insurance*,³⁶ the Florida Supreme Court followed *Pomponio* and said that the method requires a balancing of a person's interest to not have his or her contracts impaired, with the state's interest in exercising its legitimate police power. The court adopted the method used by the U.S. Supreme Court, in which the threshold

³² Article I, s. 10, U.S. Constitution and Art. I, s. 10, Fla. Const.

³³ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

³⁴ *Pomponio*, 378 So. 2d at 779.

³⁵ *Id.*

³⁶ *United States Fidelity & Guaranty Co. v. Department of Insurance*, 453 So. 2d 1355 (Fla. 1984).

inquiry is “whether the state law has, in fact, operated as a substantial impairment of a contractual relationship.”³⁷ The severity of the impairment increases the level of scrutiny.

Relevant to the extent of the impairment is whether the industry the complaining party had entered had been regulated in the past because if the party was already subject to regulation when the contract was entered, then it is understood that it would be subject to further legislation upon the same topic.³⁸ If the state regulation constitutes a substantial impairment, the state must have a significant and legitimate public purpose³⁹ and any adjustment of the rights and responsibilities of the contracting parties must be appropriate to the public purpose justifying the legislation.⁴⁰

Furthermore, although retroactive application of a law may be constitutional in certain situations,⁴¹ in 2011, the Florida Supreme Court unanimously held, in *Cohn v. The Grand Condominium Association, Inc.*,⁴² that by changing the distribution of voting power between residential owners and other owners in a mixed-use condominium, the retroactive application of the law at issue altered the rights of the unit owners in contravention of their contractual agreement and impaired the obligation of contract as applied.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 721.05, 721.08, and 721.125.

This bill creates section 721.1255 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.)

CS by Regulated Industries on March 8, 2017:

The committee substitute:

- Clarifies, for certain multisite timeshare plans that have a component site that is part of a single-site timeshare plan or condominium or other property, the parties who:
 - Are “interestholders” in the multisite timeshare plan, i.e. all timeshare interests, timeshare units, or other units specifically subject to the multisite timeshare plan; and
 - Are not “interestholders” in the multisite timeshare plan, i.e. developers; owners of the underlying land or personal property; mortgage lenders, judgment creditors,

³⁷ *United States Fidelity & Guaranty Co.*, 453 So. 2d at 1360 (quoting *Allied Structural Steel Co., v. Spannaus*, 438 U.S. 234, 244 (1978)).

³⁸ *Id.* (citing *Allied Structural Steel Co.*, 438 U.S. at 242, n. 13).

³⁹ *United States Fidelity & Guaranty Co.*, 453 So. 2d at 1360 (citing *U.S. Trust Co. of New York v. New Jersey*, 431 U.S. 1, 22 (1977)).

⁴⁰ *United States Fidelity & Guaranty Co.*, 453 So. 2d at 1361.

⁴¹ *Century Village, Inc. v. Wellington*, 361 So. 2d 128 (Fla. 1978).

⁴² *Cohn*, 62 So.3d. 1120, 1122 (Fla. 2011).

or lienholders; or any other persons with an interest, lien, or encumbrance in a single site timeshare plan, condominium, or other property;

- Clarifies that certain documents are not encumbrances, and do not create a requirement for certain notices to creditors; and
- Requires a vote to extend the term of a timeshare plan take place at a duly *noticed* meeting.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 56 - 177
and insert:
regime, the term, except as to any timeshare interest, timeshare unit, or other unit that is specifically subject to, or otherwise dedicated to, the multisite timeshare plan, does not include a developer; an owner of the underlying fee or owner of the underlying personal property; a mortgagee, judgment creditor, or other lienor; or any other person having an



841312

11 interest in or lien or encumbrance against a timeshare interest
12 in such single-site timeshare plan, or an interest in or lien or
13 encumbrance against a timeshare unit or other unit in such
14 condominium or property regime. This paragraph is intended only
15 as a clarification of existing law.

16 Section 2. Subsection (11) is added to section 721.08,
17 Florida Statutes, to read:

18 721.08 Escrow accounts; nondisturbance instruments;
19 alternate security arrangements; transfer of legal title.—

20 (11) A timeshare instrument, declaration of condominium, or
21 other instrument establishing or governing a component site
22 property regime is not an encumbrance for purposes of this
23 chapter and does not create a requirement for a nondisturbance
24 and notice to creditors instrument for purposes of this section
25 or a subordination and notice to creditors instrument for
26 purposes of s. 721.53 from the managing entity, owners'
27 association, or any other person. This subsection is intended
28 only as a clarification of existing law.

29 Section 3. Section 721.125, Florida Statutes, is amended to
30 read:

31 721.125 ~~Extension or~~ Termination of timeshare plans.—

32 (1) Unless the timeshare instrument provides otherwise, the
33 vote or written consent, or both, of 60 percent of all voting
34 interests in a timeshare plan may ~~extend or~~ terminate the term
35 of the timeshare plan at any time. ~~If the term of a timeshare~~
36 ~~plan is extended pursuant to this section, all rights,~~
37 ~~privileges, duties, and obligations created under applicable law~~
38 ~~or the timeshare instrument continue in full force to the same~~
39 ~~extent as if the extended termination date of the timeshare plan~~



841312

40 ~~were the original termination date of the timeshare plan.~~ If a
41 timeshare plan is terminated pursuant to this section, the
42 termination has immediate effect pursuant to applicable law and
43 the timeshare instrument as if the effective date of the
44 termination were the original date of termination.

45 (2) If a termination ~~or extension~~ vote or consent pursuant
46 to subsection (1) is proposed for a component site of a
47 multisite timeshare plan located in this state, the proposed
48 termination ~~or extension~~ is effective only if the person
49 authorized to make additions or substitutions of accommodations
50 and facilities pursuant to the timeshare instrument also
51 approves the termination ~~or extension~~.

52 (3) (a) If the timeshare property is managed by an owners'
53 association that is separate from any underlying condominium,
54 cooperative, or homeowners' association, the termination of a
55 timeshare plan does not change the corporate status of the
56 owners' association. The owners' association continues to exist
57 only for the purposes of concluding its affairs, prosecuting and
58 defending actions by or against it, collecting and discharging
59 obligations, disposing of and conveying its property, collecting
60 and dividing its assets, and otherwise complying with this
61 subsection.

62 1. After termination of a timeshare plan, the board of
63 administration of the owners' association shall serve as the
64 termination trustee, and in such fiduciary capacity may bring an
65 action in partition on behalf of the tenants in common in each
66 former timeshare property or sell the former timeshare property
67 in any manner and to any person who is approved by a majority of
68 all such tenants in common. The termination trustee also has all



841312

69 other powers reasonably necessary to effect the partition or
70 sale of the former timeshare property, including the power to
71 maintain the property during the pendency of any partition
72 action or sale.

73 2. All reasonable expenses incurred by the termination
74 trustee relating to the performance of its duties pursuant to
75 this subsection, including the reasonable fees of attorneys and
76 other professionals, must be paid by the tenants in common of
77 the former timeshare property subject to partition or sale,
78 proportionate to their respective ownership interests.

79 3. The termination trustee shall adopt reasonable
80 procedures to implement the partition or sale of the former
81 timeshare property and comply with the requirements of this
82 subsection.

83 (b) If a timeshare plan is terminated in a timeshare
84 condominium or timeshare cooperative and the underlying
85 condominium or cooperative is not simultaneously terminated, a
86 majority of the tenants in common in each former timeshare unit
87 present and voting in person or by proxy at a meeting of such
88 tenants in common conducted by the termination trustee, or
89 conducted by the board of administration of the condominium or
90 cooperative association, if such association managed the former
91 timeshare property, shall designate a voting representative for
92 the unit and file a voting certificate with the condominium or
93 cooperative association. The voting representative may vote on
94 all matters at meetings of the condominium or cooperative
95 association, including termination of the condominium or
96 cooperative.

97 (4)~~(3)~~ This section applies only to a timeshare plan that



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98 has been in existence for at least 25 years as of the effective
99 date of the termination ~~or extension~~ vote or consent required by
100 subsection (1).

101 Section 4. Section 721.1255, Florida Statutes, is created
102 to read:

103 721.1255 Extension of timeshare plans.-

104 (1) (a) The Legislature finds that timeshare plans are
105 created as authorized by statute. Most of the older timeshare
106 properties located in this state are based on a condominium
107 structure, and many of these older timeshare properties are
108 approaching the termination dates set forth in their timeshare
109 instruments.

110 (b) The Legislature further finds that there are many older
111 timeshare properties located in this state which have been well-
112 maintained over the years and continue to be financially
113 supported, used, and enjoyed by their owners, exchangers,
114 guests, renters, and others. In order to preserve the continued
115 use, enjoyment, tax values, and overall viability of these
116 timeshare properties, the Legislature further finds that the
117 public policy of this state requires the creation of a statutory
118 method to enable the owners of these timeshare properties to
119 extend the terms of their timeshare plans, notwithstanding
120 contrary provisions in their timeshare instruments which may
121 create uncertainty for purchasers, prospective purchasers, and
122 lenders, and which may discourage the ongoing maintenance,
123 refurbishment, and improvement of these timeshare properties.

124 (2) (a) Unless the timeshare instrument specifically
125 provides a lower percentage, the vote or written consent, or
126 both, of at least 66 percent of all eligible voting interests



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127 present in person or by proxy at a duly noticed, called, and
128 constituted

By Senator Hutson

7-00296A-17

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1 A bill to be entitled
2 An act relating to timeshares; amending s. 721.05,
3 F.S.; revising the definition of the term
4 "interestholder" to clarify that the term does not
5 include certain parties to a certain multisite
6 timeshare plan; amending s. 721.08, F.S.; clarifying
7 current law; providing that certain instruments are
8 not an encumbrance as they relate to certain vacation
9 and timeshare plans; amending s. 721.125, F.S.;
10 revising requirements for the termination of a
11 timeshare plan; providing that the termination of a
12 timeshare plan does not change the corporate status of
13 an owners' association under certain circumstances;
14 providing that the owners' association continues to
15 exist until certain affairs are concluded; requiring
16 the board of administration of the owners' association
17 to serve as the termination trustee after termination
18 of a timeshare plan; providing powers of the
19 termination trustee; specifying that certain expenses
20 incurred by the termination trustee must be borne by
21 the tenants of a former timeshare property; requiring
22 the termination trustee to adopt certain procedures to
23 implement the partition or sale of a former timeshare
24 property; requiring a voting representative to be
25 designated under certain circumstances; specifying the
26 voting rights of the voting representative; conforming
27 provisions to changes made by the act; creating s.
28 725.1255, F.S.; providing legislative findings;
29 specifying the percentage of votes required to extend
30 the term of a timeshare plan under certain
31 circumstances; specifying what constitutes a quorum
32 under certain circumstances; specifying that a meeting

7-00296A-17

2017818__

33 to extend a timeshare plan may be held at any time;
34 authorizing an owners' association to determine if a
35 person or entity holding a voting interest is
36 ineligible to vote, subject to certain requirements;
37 specifying the maximum duration of validity of a
38 proxy; providing that a proxy for a vote is revocable
39 unless otherwise stated; specifying requirements for
40 certain extension votes to be effective; providing
41 applicability; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Subsection (21) of section 721.05, Florida
46 Statutes, is amended to read:

47 721.05 Definitions.—As used in this chapter, the term:

48 (21) (a) "Interestholder" means a developer, an owner of the
49 underlying fee or owner of the underlying personal property, a
50 mortgagee, judgment creditor, or other lienor, or any other
51 person having an interest in or lien or encumbrance against the
52 accommodations or facilities of the timeshare plan.

53 (b) With respect to a multisite timeshare plan governed by
54 part II which contains a component site that is also part of a
55 single-site timeshare plan or condominium or other property
56 regime, the term does not include a developer; an owner of the
57 underlying fee or owner of the underlying personal property; a
58 mortgagee, judgment creditor, or other lienor; or any other
59 person having an interest in or lien or encumbrance against a
60 timeshare interest in such single-site timeshare plan, or an
61 interest in or lien or encumbrance against a unit in such

7-00296A-17

2017818__

62 condominium or property regime, except as to any timeshare
63 interest or unit that is specifically subject to, or otherwise
64 dedicated to, the multisite timeshare plan. This paragraph is
65 intended only as a clarification of existing law.

66 Section 2. Subsection (11) is added to section 721.08,
67 Florida Statutes, to read:

68 721.08 Escrow accounts; nondisturbance instruments;
69 alternate security arrangements; transfer of legal title.-

70 (11) A timeshare instrument, declaration of condominium, or
71 other instrument establishing or governing a component site
72 property regime is not an encumbrance for purposes of this
73 chapter and does not require a nondisturbance and notice to
74 creditors instrument for purposes of this section or a
75 subordination and notice to creditors instrument for purposes of
76 s. 721.53 from the managing entity, owners' association, or any
77 other person. This subsection is intended only as a
78 clarification of existing law.

79 Section 3. Section 721.125, Florida Statutes, is amended to
80 read:

81 721.125 ~~Extension or~~ Termination of timeshare plans.-

82 (1) Unless the timeshare instrument provides otherwise, the
83 vote or written consent, or both, of 60 percent of all voting
84 interests in a timeshare plan may ~~extend or~~ terminate the term
85 of the timeshare plan at any time. ~~If the term of a timeshare~~
86 ~~plan is extended pursuant to this section, all rights,~~
87 ~~privileges, duties, and obligations created under applicable law~~
88 ~~or the timeshare instrument continue in full force to the same~~
89 ~~extent as if the extended termination date of the timeshare plan~~
90 ~~were the original termination date of the timeshare plan. If a~~

7-00296A-17

2017818__

91 timeshare plan is terminated pursuant to this section, the
92 termination has immediate effect pursuant to applicable law and
93 the timeshare instrument as if the effective date of the
94 termination were the original date of termination.

95 (2) If a termination ~~or extension~~ vote or consent pursuant
96 to subsection (1) is proposed for a component site of a
97 multisite timeshare plan located in this state, the proposed
98 termination ~~or extension~~ is effective only if the person
99 authorized to make additions or substitutions of accommodations
100 and facilities pursuant to the timeshare instrument also
101 approves the termination ~~or extension~~.

102 (3) (a) If the timeshare property is managed by an owners'
103 association that is separate from any underlying condominium,
104 cooperative, or homeowners' association, the termination of a
105 timeshare plan does not change the corporate status of the
106 owners' association. The owners' association continues to exist
107 only for the purposes of concluding its affairs, prosecuting and
108 defending actions by or against it, collecting and discharging
109 obligations, disposing of and conveying its property, collecting
110 and dividing its assets, and otherwise complying with this
111 subsection.

112 1. After termination of a timeshare plan, the board of
113 administration of the owners' association shall serve as the
114 termination trustee, and in such fiduciary capacity may bring an
115 action in partition on behalf of the tenants in common in each
116 former timeshare property or sell the former timeshare property
117 in any manner and to any person who is approved by a majority of
118 all such tenants in common. The termination trustee also has all
119 other powers reasonably necessary to effect the partition or

7-00296A-17

2017818__

120 sale of the former timeshare property, including the power to
121 maintain the property during the pendency of any partition
122 action or sale.

123 2. All reasonable expenses incurred by the termination
124 trustee relating to the performance of its duties pursuant to
125 this subsection, including the reasonable fees of attorneys and
126 other professionals, must be paid by the tenants in common of
127 the former timeshare property subject to partition or sale,
128 proportionate to their respective ownership interests.

129 3. The termination trustee shall adopt reasonable
130 procedures to implement the partition or sale of the former
131 timeshare property and comply with the requirements of this
132 subsection.

133 (b) If a timeshare plan is terminated in a timeshare
134 condominium or timeshare cooperative and the underlying
135 condominium or cooperative is not simultaneously terminated, a
136 majority of the tenants in common in each former timeshare unit
137 present and voting in person or by proxy at a meeting of such
138 tenants in common conducted by the termination trustee, or
139 conducted by the board of administration of the condominium or
140 cooperative association, if such association managed the former
141 timeshare property, shall designate a voting representative for
142 the unit and file a voting certificate with the condominium or
143 cooperative association. The voting representative may vote on
144 all matters at meetings of the condominium or cooperative
145 association, including termination of the condominium or
146 cooperative.

147 (4)~~(3)~~ This section applies only to a timeshare plan that
148 has been in existence for at least 25 years as of the effective

7-00296A-17

2017818__

149 date of the termination ~~or extension~~ vote or consent required by
150 subsection (1).

151 Section 4. Section 721.1255, Florida Statutes, is created
152 to read:

153 721.1255 Extension of timeshare plans.-

154 (1) (a) The Legislature finds that timeshare plans are
155 created as authorized by statute. Most of the older timeshare
156 properties located in this state are based on a condominium
157 structure, and many of these older timeshare properties are
158 approaching the termination dates set forth in their timeshare
159 instruments.

160 (b) The Legislature further finds that there are many older
161 timeshare properties located in this state which have been well-
162 maintained over the years and continue to be financially
163 supported, used, and enjoyed by their owners, exchangers,
164 guests, renters, and others. In order to preserve the continued
165 use, enjoyment, tax values, and overall viability of these
166 timeshare properties, the Legislature further finds that the
167 public policy of this state requires the creation of a statutory
168 method to enable the owners of these timeshare properties to
169 extend the terms of their timeshare plans, notwithstanding
170 contrary provisions in their timeshare instruments which may
171 create uncertainty for purchasers, prospective purchasers, and
172 lenders, and which may discourage the ongoing maintenance,
173 refurbishment, and improvement of these timeshare properties.

174 (2) (a) Unless the timeshare instrument specifically
175 provides a lower percentage, the vote or written consent, or
176 both, of at least 66 percent of all eligible voting interests
177 present in person or by proxy at a duly called and constituted

7-00296A-17

2017818__

178 meeting of the owners' association may, at any time, extend the
179 term of the timeshare plan. If the term of a timeshare plan is
180 extended pursuant to this section, all rights, privileges,
181 duties, and obligations created under applicable law or the
182 timeshare instrument continue in full force to the same extent
183 as if the extended termination date of the timeshare plan were
184 the original termination date of the timeshare plan.

185 (b) Unless the timeshare instrument specifically provides
186 for a lower quorum, the quorum for the owners' association
187 meeting described in paragraph (a) is 50 percent of all eligible
188 voting interests in the timeshare plan.

189 (c) The owners' association meeting described in paragraph
190 (a) may be held at any time.

191 (d) The board of administration of the owners' association
192 may determine that any person or entity holding a voting
193 interest who is delinquent in the payment of more than 2 years
194 of assessments is ineligible to vote on any extension of the
195 timeshare plan unless the delinquency is paid in full before the
196 vote.

197 (e) A proxy for a vote to extend a timeshare plan pursuant
198 to this section may be valid for a period of up to 3 years and
199 is revocable unless it states that it is irrevocable.

200 (3) If an extension vote or consent pursuant to this
201 section is proposed for a component site of a multisite
202 timeshare plan located in this state, the proposed extension is
203 effective only if the person authorized to make additions or
204 substitutions of accommodations and facilities pursuant to the
205 timeshare instrument also approves the extension.

206 (4) This section applies to all timeshare properties

7-00296A-17

2017818__

207 located in this state.

208 Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/8/17

Meeting Date

818

Bill Number (if applicable)

Topic Timeshares

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St Suite 300

Phone 222-7500

Tallahassee FL 32312

Email garyh@hgsllaw.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing American Resort Development Association

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on the Environment
and Natural Resources
Health Policy
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
14th District

March 3, 2017

The Honorable Travis Hutson
Regulated Industries Committee, Chair
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Request for Excusal from Committee Meeting

Dear Chairman Hutson:

Please excuse me from the Regulated Industries Committee on March 8, 2017 at 4:00 p.m. as I will not be able to attend due to illness.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy L. Hukill".

Dorothy L. Hukill
State Senator, District 14

cc: Ross McSwain, Staff Director of the Regulated Industries Committee
Lynn Koon, Committee Administrative Assistant of the Regulated Industries Committee

REPLY TO:

□ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: SB 301
Caption: Senate Regulated Industries

Case No.:
Judge:

Type:

Started: 3/8/2017 4:02:27 PM
Ends: 3/8/2017 5:07:56 PM **Length:** 01:05:30

4:02:47 PM Call the order
4:02:53 PM Roll call
4:03:11 PM Quorum present
4:03:19 PM Sen. Hukill excused
4:03:39 PM SB 802 by Sen. Passidomo
4:03:45 PM Sen. Passidomo to explain the bill
4:06:10 PM Questions
4:06:17 PM Sen. Gibson with a question
4:07:21 PM Tim Vaccaro, DBPR, with a response
4:07:32 PM Sen. Gibson for a series of questions
4:08:26 PM Sen. Thurston with a question
4:09:44 PM Sen. Passidomo with an answer
4:09:49 PM Sen. Thurston with a series of questions
4:11:17 PM Sen. Gibson with a question
4:12:05 PM Sen. Passidomo with an answer
4:12:50 PM Tim Vaccaro with DBPR for a response
4:13:12 PM Public comments
4:13:51 PM Don Cotton with FL Auctioneers
4:17:41 PM Chair for comment
4:18:35 PM Sen. Brandes with a question
4:21:54 PM Curtis Austin with Postsecondary Schools & Colleges
4:23:53 PM Sen. Bracy with a question
4:24:41 PM Chair with a question
4:26:04 PM Mez Varol with Florida Association of Cosmetology and Technical School
4:30:47 PM Sen. Young with a question
4:31:46 PM Andrew Hosek with Americans for Prosperity waives in support
4:31:58 PM Dan Washburn with Great Clips
4:33:30 PM Chad Johnson with Auctioneer Association
4:39:55 PM Chair with a question
4:42:19 PM Robert Rosenberg with Artistic Nails and Beauty Academy waives in opposition
4:42:34 PM Gregory Jones with Sunstate Academy waives in opposition
4:42:42 PM Cesar Grajales waives in support
4:42:49 PM Monica Rodriguez waives in opposition
4:43:10 PM Samantha Padgett of the Florida Retail Federation
4:46:26 PM Sen. Thurston with a question
4:46:57 PM Angela Johnson with Florida Auctioneers Association waives in opposition
4:47:00 PM Debate on the bill
4:47:14 PM Sen. Steube in debate
4:47:18 PM Sen. Young in debate
4:48:37 PM Sen. Brandes in debate
4:48:44 PM Sen. Gibson in debate
4:53:38 PM Sen. Thurston in debate
4:54:15 PM Chair in debate
4:54:39 PM Sen. Passidomo to close on the bill
4:58:14 PM Roll call
4:58:36 PM Bill reported favorably
4:59:06 PM SB 662 by Senator Young
4:59:14 PM Explanation of the bill
5:00:36 PM Questions?
5:00:43 PM Appearance cards?
5:00:51 PM Lee Moffit waives in support
5:00:52 PM Jamie Wilson, Moffit Cancer Center, waives in support

5:00:55 PM Debate?
5:01:00 PM Close on the bill
5:01:04 PM Roll call on the bill
5:01:18 PM Bill reported favorably
5:01:34 PM Chair passes the gavel to Senator Brandes
5:01:46 PM SB 818 by Chair Hutson
5:01:51 PM Explanation of the bill
5:02:25 PM Amendment barcode 841312
5:02:34 PM Amendment adopted
5:02:38 PM Back on the bill as amended
5:02:41 PM Questions?
5:02:47 PM Senator Brandes for a question
5:03:15 PM Chair for a response
5:03:39 PM Appearance cards
5:03:55 PM Gary Hunter, American Resort Development Association
5:04:26 PM Senator Brandes for a question
5:06:10 PM Gary Hunter for comments
5:06:43 PM Questions?
5:06:54 PM In Debate?
5:06:58 PM Senator Hutson waives close
5:07:00 PM Roll call
5:07:26 PM CS/SB 818 reported favorably
5:07:39 PM Senator Perry moves we adjourn
5:07:45 PM Meeting Adjourned