

Committee on Regulated Industries

CS/HB 249 — Public Lodging Establishments

by Government Operations Appropriations Subcommittee and Rep. Bembry (CS/SB 454 by Commerce and Tourism Committee and Senator Wise)

The bill exempts apartment buildings that are inspected by the U.S. Department of Housing and Urban Development (HUD), or other entity acting on its behalf, and that are designated primarily as housing for persons age 62 or older from regulation by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation. The division may require the operator of the building to attest in writing that the apartment meets the criteria to qualify for the exemption. The bill also authorizes the division to adopt rules to implement this exemption.

The bill exempts roominghouses, boardinghouses, or other sleeping facilities that are not classified as a hotel, motel, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment from the definition for the term “public lodging establishment.” The amended definition would exempt these locations from regulation by the division.

The bill would also expand the definition of the term “vacation rental” to include three-family houses or dwelling units in addition to the single-family, two-family, and four-family houses or dwelling units that are currently included in the definition.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 38-0; House 114-0

Committee on Regulated Industries

CS/HB 479 — Animal Control

by Health and Human Services Quality Subcommittee; Rep. O'Toole, and others (CS/SB 654 by Regulated Industries Committee and Senators Hays, Sobel, and Montford)

The bill expands the list of drugs that can be used to euthanize and immobilize domestic animals. The bill allows the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to expand the list of drugs that may be used to euthanize or immobilize domestic animals if findings support the addition of drugs to the list for humane and lawful treatment of animals. The bill limits the possession and use of these drugs to animal control officers and employees or agents of animal control agencies and humane societies while operating within the scope of their employment or official duties.

The bill clarifies that the Department of Health is responsible for issuing the permit, by removing an outdated reference to the Department of Business and Professional Regulation being responsible for issuing the permit. The bill provides the Department of Health and the Board of Pharmacy with the authority to deny a permit, or fine, place on probation, or otherwise discipline an applicant or permittee for failure to maintain certain standards or violation of statutes. The bill allows the Department of Health to immediately suspend a permit through emergency order upon a determination that a permittee poses a threat to public health, safety and welfare.

The bill eliminates food-based delivery of euthanasia drugs as an acceptable method of euthanization. The bill permits euthanasia by intracardial injection only upon a dog or cat which is unconscious and exhibits no corneal reflex.

Lastly, the bill requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report to the Department of Health knowledge of any animal bite, diagnosis or suspicion of a group of animals having similar disease, or any symptom or syndrome that may pose a threat to humans.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 39-0; House 116-0

Committee on Regulated Industries

CS/HB 517 — Reducing and Streamlining Regulations

by Economic Affairs Committee and Rep. Grant and others (CS/CS/SB 762 by Budget Subcommittee on General Government Appropriations; Criminal Justice Committee; and Senator Hays)

The bill revises references to the professional standards with which registered, licensed, and certified appraisers are required to comply. It requires the Florida Real Estate Appraisal Board to adopt rules that establish standards of professional practice that meet or exceed nationally recognized standards of appraisal practice, including standards adopted by the Appraisal Standards Board of the Appraisal Foundation. It requires these standards to be used in the purchase of lands for the Lake Apopka Improvement program.

The bill waives the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for military veterans who apply to the department for a license within 24 months of being honorably discharged from service.

The bill reduces the continuing education hours required to reactivate an inactive license to only one renewal cycle of hours, instead of the hours required for each year the license was inactive, for the following professions: community association managers, home inspectors, providers of mold-related services, cosmetologists, architects, landscape architects, construction contractors, and electrical and alarm system contractors. The bill exempts certified public accountants licensed under ch. 473, F.S., and real estate brokers, sales associates, real estate schools, and appraisers licensed under ch. 475, F.S. These professionals would continue to be required to complete the continuing education required for each two-year period of licensure in order to reactivate an inactive license. The bill also provides that the Board of Architecture and Interior Design may only approve continuing education for an interior designer that builds upon the basic knowledge of interior design.

The bill repeals provisions that provide criminal penalties for violations of agency rules and the chapters of the Florida Statutes that govern the specified professions. Under the bill the following professions would not be subject to criminal penalties for such violations: auctioneers, real estate professionals, barbers, and cosmetologists. However, the bill limits the application of criminal penalties for specified violations by auctioneers that relate to financial dishonesty or malfeasance.

The bill revises the provisions related to the regulation of appraisal management company's banks, credit unions, or other lending institutions that own and operate an internal appraisal office, business unit, or department. This is consistent with the federal Dodd Frank Act, which exempts from state regulation, financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution.

The bill extends the time period to be classified as a bulk buyer or bulk assignee from July 1, 2012, to July 1, 2015, in the context of the Distressed Condominium Relief Act in ch. 718, part

VII, F.S. This provision delineates the warranty and other obligations of “bulk buyers,” i.e., persons who purchase more than seven units in a single condominium but were not assigned developer rights or other specified rights.

In addition, the bill:

- Permits applicants for a real estate appraiser’s certification to use the results of national examinations required for the license that were obtained more than 24 months after the date of the examination;
- Permits real estate continuing education instructors to complete their continuing education through distance learning and permits real estate schools to offer any course through distance learning;
- Revises licensure requirements for architects by removing the ability of the Board of Architecture and Interior Design to review and approve unaccredited schools and colleges of architecture and courses of architectural study and allows the required internship to be completed as provided by board rule;
- Permits architects who have passed a license examination in another state and are licensed in that state to qualify for a Florida-issued architects license if they hold a minimum- 4-year degree, have held the license for a minimum of 10 years, has been a continuous resident of this state for 10 years, and have completed the continuing education requirements for renewal of a license for the biennium license renewal period ending on February 23, 2013. This provision would expire on March 1, 2013;
- Conforms with exemptions for other utilities by removing a requirement for persons repairing, maintaining, removing, or disposing of asbestos-containing pipe or conduit used for gas service to be licensed as an asbestos consultant or contractor;
- Expands exemptions regarding mold-related services to include landscape architects if they are not holding themselves out for hire to the public using names implying that they perform mold assessment services or stating or implying that they are licensed under ch. 468, part XVI, F.S.; and
- Provides an exception to the prohibition against the selling and processing of distilled spirits that are greater than 153 proof. To qualify for the exception, the distilled spirits must be bottled, packaged, or processed for export or sale outside the state.

The bill also revises the Florida Drug and Cosmetic Act in ch. 499, part I, F.S., which is administered by the Drugs, Devices and Cosmetics Program within the Department of Business and Professional Regulation. The bill organizes various exceptions to the permit requirements into a single subsection. It eases existing restrictions on the limited distribution of active pharmaceutical ingredients to Florida-permitted prescription drug manufacturers and restrictions on prescription drug distributions to Florida-permitted prescription drug manufacturers and researchers. The bill reduces inventory recordkeeping requirements for contract providers who transfer prescription drugs to or from government agencies or eligible facilities at public health prices. The bill provides an exemption from the prescription drug re-packager permit requirement and the product registration requirements for a restricted prescription drug distributor permitholder that is a health care entity that re-packages prescription drugs in this

state for its own use or distributes prescription drugs to a hospital or other health care entity in the state for its own use if it meets certain conditions.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 88-29

Committee on Regulated Industries

HB 693 — Department of Business and Professional Regulation

by Rep. Ingram (CS/SB 1120 by Budget Subcommittee on General Government Appropriations and Senator Jones)

The bill repeals provisions related to the use of metering machines for placing tax stamps on cigarette packages to evidence payment of excise taxes. According to the Department of Business and Professional Regulation (department), such machines are no longer in use.

The bill repeals the following licensing requirements:

- The requirement that professional licensees of the department who change from inactive to active status during the renewal of their license must complete a licensure cycle on active status before they can return to inactive status;
- The license requirement for the chief administrators of real estate schools;
- The requirement that applicants for licensure as a nonresident real estate broker, sales associate, appraisal management company, and appraiser to file an irrevocable consent for service through which a plaintiff may serve process against the non-resident license by sending the process to the director of the agency as well as to the licensee's principal place of business by certified mail with return receipt. This bill would require plaintiffs to obtain service of process against a nonresident licensee with a process server;
- The requirement that an applicant for a barber's license must apply with the department at least 30 days before taking a license examination and furnish two photographs with the application; and
- The requirement that alcoholic beverages licenses be issued in duplicate.

The bill also repeals the prohibition against the processing of distilled spirits that are greater than 153 proof. The bill maintains the current prohibition against the sale or consumption of a distilled spirit that is greater than 153 proof. However, the bill permits distilled spirits that are greater than 153 proof to be distilled, bottled, packaged, or processed for export or sale outside of the state.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 118-0

Committee on Regulated Industries

CS/HB 715 — Self-service Storage Facilities

by Civil Justice Subcommittee and Rep. Caldwell (CS/S 646 by Regulated Industries and Senator Wise)

This bill revises the provision in s. 83.803(6), F.S., that a notice of change of address must be provided by the tenant by certified mail and instead allows for first-class mail and e-mail notifications. This bill amends s. 83.806, F.S., to allow notices to be provided to the tenant by e-mail or first-class mail with a certificate of mailing. If the owner notifies the tenant by e-mail, a response, return receipt, or delivery confirmation from the last known e-mail address of the tenant is required. If no response is forthcoming, the owner must send notice of the sale to the tenant's last known address by first-class mail along with a certificate of mailing, before proceeding with the sale. A notice of any balance remaining after the sale may be delivered to the tenant by first-class mail with a certificate of mailing rather than by certified mail. The bill also amends s. 83.808, F.S., to require rental agreements or applications for a rental agreement to contain a provision disclosing whether the applicant is a member of the uniformed services as that term is defined in 10 U.S.C. s. 101(a)(5).

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 35-0; House 114-0

Committee on Regulated Industries

CS/CS/HB 769 — Public Accountancy

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; and Rep. Ford and others (CS/SB 1656 by Regulated Industries Committee and Senator Latvala)

The bill deletes the requirement that the one year of work experience that is required for a license as a certified public accountant (CPA) must be under the supervision of a licensed CPA. The bill requires that the applicant's work must be verified by a licensed CPA. The bill deletes the requirement that applicants for a license as a certified public accountant must have the required one year of work experience verified by the CPA who supervise them.

The bill provides an alternative method for licensure by endorsement for out-of-state applicants who are licensed. The bill would permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application, has passed a licensing examination that is substantially equivalent to the Florida examination requirement, and meets the Florida requirements for good moral character.

The bill provides a process for reactivation of licenses that are inactive or delinquent on June 30, 2012, because of the licensee's request or due to failure to complete the continuing education requirements. The inactive license may be reactivated upon the completion of 120 hours of continuing education if that person applies for reactivation between June 30, 2012, and December 31, 2012.

The bill provides the process for reactivating licenses that have become delinquent for failure to complete continuing education requirements. The process would require the inactive licensee to pay a fee as determined by the department and to submit proof of satisfactorily completing the continuing education requirement. The inactive licensee must also submit the completed application for reactivation to the board by March 15 immediately following the inactive period.

The bill requires the Board of Accountancy, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 39-0; House 118-0

Committee on Regulated Industries

CS/HB 843 — Department of the Lottery

by Government Operations Appropriations Subcommittee and Rep. Roberson (CS/SB 902 by Budget Committee and Senator Jones)

The bill expands the type of vending machines that the Department of the Lottery may utilize to dispense lottery tickets. Under current law, the department may only sell instant tickets or “scratch-off” tickets through a lottery vending machine. The bill authorizes the department to sell all lottery tickets through a vending machine, which includes both instant tickets and online tickets. Online tickets are draw games such as Lotto and Powerball tickets.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 35-2; House 113-4

Committee on Regulated Industries

CS/CS/HB 887 — Business and Professional Regulation

by Economic Affairs Committee; Business and Consumer Affairs Subcommittee; and Rep. Ingram and others (CS/CS/SB 1252 by Budget Subcommittee on General Government Appropriations; Regulated Industries Committee; and Senators Jones and Gaetz)

This bill relates to the Department of Business and Professional Regulation (department). The bill revises the following provisions related to the department's licensing processes and the requirements for the professions licensed by the department. The bill:

- Permits wholesale tobacco dealers to extend credit to retail dealers, and authorizes the Division of Alcoholic Beverage and Tobacco to suspend or deny the renewal of the tobacco permit of a retail dealer after the wholesale dealer submits proof to the division that the dealer has failed to satisfy a civil judgment for failure to pay for tobacco products purchased from a wholesale dealer. The permit would remain suspended until the retailer entered into a payment plan or satisfied the civil judgment in full;
- Waives the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for military veterans who apply to the department for a license within 24 months of being honorably discharged from service;
- Authorizes the department to approve continuing education providers and courses without a review by the appropriate board if the provider or course application does not require expert review or denial;
- Authorizes the department, in lieu of a board, to approve applications for reinstatement of a void license if the department determines that the individual failed to comply due to illness or economic hardship;
- Authorizes the department to send the license renewal notice to the licensee's last known e-mail address if provided;
- Permits continuing education instructors to complete their continuing education through distance learning;
- Revises the provisions related to the regulation of appraisal management companies banks, credit unions, or other lending institutions that own and operate an internal appraisal office, business unit, or department. This is consistent with the federal Dodd Frank Act, which exempts from state regulation financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution;
- Permits applicants for a real estate appraiser's certification to the results of national examinations required for the license that were obtained more than 24 month after the date of the examination;
- Prohibits appraisal management companies from requiring that appraisers agree to an indemnity agreement;
- Permits cosmetology applicants, if licensed in another state, to qualify for a license without having to submit proof of completing their required educational hours if the state's requirements include 1200 pre-licensure hours and passage of a written examination;

- Permits cosmetologists and specialists to perform cosmetology and specialty services at special events held outside of salons if they are employed by a licensed salon and appointments for such services are made through a licensed salon;
- Repeals the license requirement for glass and glazing contractors;
- Extends from November 1, 2005, to November 1, 2014, the period for registered contractors, who are limited to practicing within the county or counties in which they are registered, to qualify for state-wide certification;
- Exempts amateur boxing, martial arts or kickboxing matches from the prohibition against blows to the head in such matches unless the match is sanctioned by an amateur sanctioning organization when the matches are conducted or sponsored by nonprofit schools or education programs, a company or detachment of the Florida National Guard or by the Fraternal Order of Police, and held in conjunction with a charitable event. This provision would take effect upon becoming law; and
- Repeals the five percent tax on closed circuit television broadcasts of pugilistic matches to matches originating within and out-of-state.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 40-0; House 115-0

Committee on Regulated Industries

CS/CS/CS/HB 1001 — Timeshares

by Economic Affairs Committee; Judiciary Committee; Business and Consumer Affairs Subcommittee; and Rep. Eisnaugle and others (CS/CS/SB 1408 by Budget Subcommittee on General Government Appropriations; Regulated Industries Committee; and Senator Gardiner)

The bill requires the full and fair disclosure of terms, conditions, and services offered by timeshare resale service providers, which includes brokers and advertisers who offer unsolicited telemarketing, direct mail, or e-mail in connection with the offering of resale brokerage services or resale advertising services to consumer owners of timeshares who wish to sell their interest in a timeshare. It provides exceptions for sales by consumers and licensed real estate brokers.

The bill specifies the information that resale service providers must provide to the consumer timeshare resellers before engaging in resale brokerage services or resale advertising services, including a description of any fees or costs; a description of when such fees or costs are due; and the ratio or percentage of the number of timeshare resale interests sold or rented versus the number of timeshare resale interests listed for sale or rent by the timeshare resale broker for each of the previous two calendar years. Resale service providers may not engage in those activities of a real estate broker unless they are a licensed real estate broker.

The bill prohibits timeshare resale service providers from:

- Representing that they will provide any type of direct sales or resale brokerage services;
- Representing that another person has a preexisting interest in the timeshare without providing identifying information for that person;
- Representing that sales or rentals have been achieved or generated, unless the resale provider substantiates the statement at the time of representation;
- Representing that a specific number of sales or rentals have been sold or rented without providing the consumer with the ratio or percentage timeshare interests advertised that have actually resulted in a sale or rental for each of the previous two calendar years;
- Representing that a timeshare interest has a specific resale value;
- Collecting any payment that exceeds an aggregate total of \$75 or more in any 12-month period without first receiving a written contract; and
- Failing to honor a cancellation notice sent by the consumer timeshare reseller.

The bill specifies the information that must be included in a written contract for resale advertising services, which includes a conspicuous statement that the consumer has the right to cancel the contract for advertising services within 10 days after the date the contract is signed. The bill also requires that resale advertisers provide a full refund within 20 days of the consumer's cancellation of the agreement, or five days after the consumer's check has cleared, whichever is later.

If the contract for resale advertising services fails to comply with the provisions in the bill, the contract would be voidable at the option of the consumer for one year after the date it is executed

by the consumer. If a violation of the provisions in the bill occurs during an offering of resale services, both the resale service provider and the person who actually commits the violation would be deemed to have violated this section.

The bill provides that persons who provide resale advertising services for timeshare interest have submitted to the jurisdiction of the state courts. The bill provides a civil penalty of \$15,000 per violation in addition to the penalties and remedies provided in the Unfair and Deceptive Trade Practices Act in part II of ch. 501, F.S.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 113-0

Committee on Regulated Industries

CS/CS/HB 1089 — Public Records/Agency Personnel Information

by State Affairs Committee; Government Operations Subcommittee; and Rep. Adkins (CS/SB 906 by Governmental Oversight and Accountability Committee and Senator Hays)

This bill expands the public records exemption for agency personnel information to include the home addresses, telephone numbers, and photographs of current or former investigators and inspectors of the Department of Business and Professional Regulation (department). The bill also exempts the home addresses, telephone numbers, and places of employment of the spouses and children of current or former investigators and inspectors of the department, as well as the names and locations of the schools and day care facilities attended by their children. The bill requires investigators and inspectors of the department to have made reasonable efforts to protect their personal information from being accessible by alternate means.

The bill further expands the public records exemption for agency personnel information to include the home addresses and telephone numbers of county tax collectors. The bill also exempts the home the home addresses, telephone numbers, and places of employment of the spouses and children of the county tax collectors, as well as the names and locations of the schools and day care facilities attended by their children.

The bill specifies that the exemptions are subject to the Open Government Sunset Review Act and would stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity for the exemptions as required by the State Constitution.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-1; House 115-0

Committee on Regulated Industries

CS/HB 7095 — Clerks of Court

by Appropriations Committee; Judiciary Committee; and Rep. Snyder (CS/CS/SB 1166 by Judiciary Committee; Regulated Industries Committee, and Senator Simmons)

The bill amends current law relating to the responsibilities of the clerks of the court to enhance the collection of court fees and fines and to improve the efficiency of their operations. The bill requires a broader use of the Comprehensive Case Information System (CCIS) among state agencies to reduce operational costs and duties of the clerks of the court.

The bill:

- Makes discretionary the clerk's review of property and motor vehicle records of persons seeking an indigency determination for purposes of obtaining a public defender.
- Provides that filing fees are due when a party files a pleading to initiate a proceeding.
- Provides that fees are due upon filing a pleading to reopen a case that has been closed at least 90 days.
- Requires clerks to collect a \$10 service charge for issuing a certified copy or an electronic certified copy of a summons rather than only for an original summons.
- Updates jury legislation to reflect modern practices and current procedures.
- Allows an action for the collection of court costs and fines to be brought at any time.
- Requires the state attorney to notify the clerk of the court when a defendant is a public officer charged with a specified offense before the clerk is required to send notice of the proceedings to the Commission on Ethics.
- Ranks claims for the collection of unpaid fees, court costs, and fines at level three for payment of claims against a decedent's estate by a personal representative.
- Removes the requirement for clerks of the court to send certified copies of felony drug convictions to agencies issuing business or professional licenses, and replaces it with a requirement for the licensing agency to obtain such information from the CCIS.
- Provides that, with respect to criminal financial obligations, a previously imposed criminal or civil judgment constitutes a civil lien against the judgment debtor's real or personal property when recorded as required by s. 55.10, F.S. The bill exempts such liens from the current 10 year re-recording requirement of the statute.
- Adds the payment of fines, fees, and other court related costs as a condition of parole in addition to the current condition of paying restitution.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 111-0