

By the Committee on Regulated Industries and Senator Sebesta

315-1928A-00

1 A bill to be entitled
2 An act relating to regulation of professions
3 under the Department of Business and
4 Professional Regulation; amending s. 310.071,
5 F.S.; providing for disqualification from
6 applying for and denial of deputy pilot
7 certification for being found guilty of, or
8 having pled guilty or nolo contendere to,
9 certain crimes; amending s. 310.151, F.S.;
10 providing for deposit and disposition of
11 amounts received from imposition of pilotage
12 rates pending rendition of a final order
13 regarding such rates; amending s. 399.061,
14 F.S.; revising requirements for elevator
15 inspections and service maintenance contracts;
16 amending s. 455.217, F.S.; revising provisions
17 relating to translation of examinations in
18 Spanish; amending s. 455.2179, F.S.; providing
19 for approval of continuing education providers;
20 providing fees; providing rulemaking authority;
21 amending s. 455.219, F.S., and repealing
22 subsection (3), relating to fees required for
23 approval as a continuing education provider;
24 authorizing the department to adopt rules to
25 provide for waiver of license renewal fees
26 under certain circumstances and for a limited
27 period; creating s. 455.32, F.S.; creating the
28 Management Privatization Act; providing
29 definitions; authorizing the department to
30 contract with a corporation or other business
31 entity to perform support services specified

1 pursuant to contract; providing contract
2 requirements; providing corporation powers and
3 responsibilities; establishing reporting and
4 audit requirements; providing for future review
5 and repeal; amending s. 468.382, F.S.; defining
6 the term "absolute auction"; amending s.
7 468.385, F.S.; revising requirements relating
8 to the conduct, administration, approval, and
9 scope of the examination for licensure as an
10 auctioneer; specifying that an auction may only
11 be conducted by an active licensee; creating s.
12 468.3855, F.S.; providing requirements for
13 auctioneer apprentices; amending s. 468.388,
14 F.S.; adding requirements and responsibilities
15 relating to the conduct of an auction; deleting
16 exceptions from a requirement that auctions be
17 conducted pursuant to a written agreement;
18 amending s. 468.389, F.S.; providing for
19 disciplinary action against licensees who fail
20 to account for certain property; providing
21 penalties; reenacting ss. 468.385(3), 468.391,
22 F.S., relating to licensure as an auctioneer
23 and to a criminal penalty, respectively, to
24 incorporate the amendment to s. 468.389, F.S.,
25 in references thereto; amending s. 468.392,
26 F.S.; authorizing the designee of the Secretary
27 of Business and Professional Regulation to sign
28 vouchers for payment or disbursement from the
29 Auctioneer Recovery Fund; amending s. 468.395,
30 F.S.; revising conditions of recovery from the
31 Auctioneer Recovery Fund; providing for

1 recovery from the fund pursuant to an order
2 issued by the Florida Board of Auctioneers;
3 deleting a requirement that notice be given to
4 the board at the time action is commenced;
5 providing limitations on bringing claims for
6 certain acts; providing subrogation rights for
7 the fund; amending s. 468.397, F.S., relating
8 to payment of claim; correcting language;
9 amending s. 468.433, F.S.; revising
10 requirements for licensure as a community
11 association manager, to include certain
12 prelicensure education; providing for provider
13 approval, including fees; repealing s.
14 468.525(3)(h), F.S., relating to a prohibition
15 on employee leasing companies and groups from
16 including employees who engage in services or
17 arrangements that are not within the definition
18 of employee leasing; amending s. 468.526, F.S.;
19 modifying qualifications for licensure as an
20 employee leasing company group; amending s.
21 468.531, F.S.; providing prohibitions against
22 offering to practice employee leasing without
23 being licensed and against the use of certain
24 titles relating to employee leasing without
25 being registered; providing penalties; amending
26 s. 470.005, F.S.; providing rulemaking
27 authority to the Board of Funeral Directors and
28 Embalmers relating to inspection of direct
29 disposal establishments, funeral
30 establishments, and cinerator facilities and
31 the records of each establishment or facility;

1 amending s. 470.015, F.S.; requiring board
2 approval of continuing education providers;
3 revising provisions relating to continuing
4 education hours; amending ss. 470.016, 470.018,
5 F.S.; revising provisions relating to
6 continuing education hours; amending s.
7 470.017, F.S.; revising provisions relating to
8 registration as a direct disposer, including
9 fee-setting responsibility; amending s.
10 470.021, F.S.; prohibiting colocation of
11 certain direct disposal establishments with
12 more than one funeral establishment or direct
13 disposal establishment; amending s. 470.028,
14 F.S.; revising provisions relating to
15 registration of agents for preneed sales;
16 amending s. 470.0301, F.S.; revising provisions
17 relating to registration of centralized
18 embalming facilities to provide for operating
19 procedures; providing requirements for
20 full-time embalmers in charge; amending ss.
21 471.003, 471.0035, 471.011, 471.023, 471.037,
22 F.S.; updating references relating to
23 regulation of engineering to incorporate
24 provisions relating to the Florida Engineers
25 Management Corporation and engineers performing
26 building code inspector duties; amending s.
27 471.005, F.S.; defining the terms "retired
28 professional engineer" and "professional
29 engineer, retired"; updating references;
30 amending s. 471.015, F.S.; revising educational
31 requirements for licensure by endorsement;

1 updating references; amending s. 471.017, F.S.;
2 granting the Board of Professional Engineers
3 rulemaking authority to establish biennial
4 licensure renewal procedures; replacing
5 continuing education provisions with provisions
6 requiring certain demonstration of continuing
7 professional competency; amending s. 471.019,
8 F.S., to create s. 471.0195, F.S.; separating
9 provisions relating to building code training
10 from provisions relating to licensure
11 reactivation requirements; amending s. 471.025,
12 F.S.; requiring final bid documents to be
13 signed, dated, and sealed and authorizing the
14 electronic transfer of such documents; amending
15 s. 471.031, F.S.; providing a penalty for
16 certain activities prohibited under ch. 471,
17 F.S., relating to engineering; updating
18 references; amending s. 474.202, F.S.; revising
19 the definition of the term "veterinarian";
20 amending s. 474.203, F.S.; revising and
21 providing exemptions from regulation under ch.
22 474, F.S., relating to veterinary medical
23 practice; providing that certain exempt persons
24 are duly licensed practitioners for purposes of
25 prescribing drugs or medicinal supplies;
26 amending s. 474.211, F.S.; providing that
27 criteria for providers of continuing veterinary
28 medical education shall be approved by the
29 board; amending s. 474.214, F.S.; increasing
30 the administrative fine; reenacting ss.
31 474.207(2), 474.217(2), F.S., relating to

1 licensure by examination and licensure by
2 endorsement, to incorporate the amendment to s.
3 474.214, F.S., in references thereto; amending
4 s. 474.215, F.S.; requiring limited service
5 permittees to register each location and
6 providing a registration fee; providing
7 requirements for certain temporary rabies
8 vaccination efforts; providing permit and other
9 requirements for persons who are not licensed
10 veterinarians, but who desire to own and
11 operate a veterinary medical establishment;
12 providing disciplinary actions applicable to
13 holders of premises permits; amending s.
14 474.2165, F.S.; providing requirements with
15 respect to ownership and control of veterinary
16 medical patient records; providing for the
17 furnishing of reports or copies of records;
18 providing for participation of veterinarians in
19 impaired practitioner treatment programs;
20 amending s. 475.045, F.S.; abolishing the
21 Florida Real Estate Commission Education and
22 Research Foundation Advisory Committee and
23 transferring its duties to the commission;
24 amending s. 477.0132, F.S.; restricting to the
25 Board of Cosmetology authority to review,
26 evaluate, and approve courses required for hair
27 braiding, hair wrapping, and body wrapping
28 registration; exempting providers of such
29 courses from certain licensure; amending s.
30 477.019, F.S.; revising requirements for
31 licensure to practice cosmetology; providing

1 fees; amending ss. 492.101, 492.102, 492.104,
2 492.105, 492.108, 492.112, 492.113, 492.116,
3 492.1165, F.S.; revising cross-references;
4 amending s. 492.107, F.S.; revising provisions
5 relating to the use of seals by licensed
6 geologists; amending s. 492.111, F.S.;
7 providing requirements relating to geologists
8 of record for firms, corporations, and
9 partnerships; providing an appropriation;
10 providing an effective date.

11

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

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14 Section 1. Subsection (4) is added to section 310.071,
15 Florida Statutes, to read:

16 310.071 Deputy pilot certification.--

17 (4) Notwithstanding s. 112.011 or any other provision
18 of law relating to the restoration of civil rights, an
19 applicant shall be disqualified from applying for and shall be
20 denied a deputy pilot certificate if the applicant, regardless
21 of adjudication, has ever been found guilty of, or pled guilty
22 or nolo contendere to, a charge which was:

23 (a) A felony or first degree misdemeanor which
24 directly related to the navigation or operation of a vessel;
25 or

26 (b) A felony involving the sale of or trafficking in,
27 or conspiracy to sell or traffic in, a controlled substance as
28 defined by chapter 893, or an offense under the laws of any
29 state or country which, if committed in this state, would
30 constitute the felony of selling or trafficking in, or
31 conspiracy to sell or traffic in, such controlled substance.

1 Section 2. Subsection (4) of section 310.151, Florida
2 Statutes, is amended to read:

3 310.151 Rates of pilotage; Pilotage Rate Review
4 Board.--

5 (4)(a) The applicant shall be given written notice,
6 either in person or by certified mail, that the board intends
7 to modify the pilotage rates in that port and that the
8 applicant may, within 21 days after receipt of the notice,
9 request a hearing pursuant to the Administrative Procedure
10 Act. Notice of the intent to modify the pilotage rates in that
11 port shall also be published in the Florida Administrative
12 Weekly and in a newspaper of general circulation in the
13 affected port area and shall be mailed to any person who has
14 formally requested notice of any rate change in the affected
15 port area. Within 21 days after receipt or publication of
16 notice, any person whose substantial interests will be
17 affected by the intended board action may request a hearing
18 pursuant to the Administrative Procedure Act. If the board
19 concludes that the petitioner has raised a disputed issue of
20 material fact, the board shall designate a hearing, which
21 shall be conducted by formal proceeding before an
22 administrative law judge assigned by the Division of
23 Administrative Hearings pursuant to ss. 120.569 and 120.57(1),
24 unless waived by all parties. If the board concludes that the
25 petitioner has not raised a disputed issue of material fact
26 and does not designate the petition for hearing, that decision
27 shall be considered final agency action for purposes of s.
28 120.68.The failure to request a hearing within 21 days after
29 receipt or publication of notice shall constitute a waiver of
30 any right to an administrative hearing and shall cause the
31 order modifying the pilotage rates in that port to be entered.

1 If an administrative hearing is requested pursuant to this
2 subsection, notice of the time, date, and location of the
3 hearing shall be published in the Florida Administrative
4 Weekly and in a newspaper of general circulation in the
5 affected port area and shall be mailed to the applicant and to
6 any person who has formally requested notice of any rate
7 change for the affected port area.

8 (b) In any administrative proceeding pursuant to this
9 section, the board's proposed rate determination shall be
10 immediately effective and shall not be stayed during the
11 administrative proceeding, provided that, pending rendition of
12 the board's final order, the pilot or pilots in the subject
13 port deposit in an interest-bearing account all amounts
14 received which represent the difference between the previous
15 rates and the proposed rates. The pilot or pilots in the
16 subject port shall keep an accurate accounting of all amounts
17 deposited, specifying by whom or on whose behalf such amounts
18 were paid, and shall produce such an accounting upon request
19 of the board. Upon rendition of the board's final order:

20 1. Any amounts deposited in the interest-bearing
21 account which are sustained by the final order shall be paid
22 over to the pilot or pilots in the subject port, including all
23 interest accrued on such funds; and

24 2. Any amounts deposited which exceed the rates
25 sustained in the board's final order shall be refunded, with
26 the accrued interest, to those customers from whom the funds
27 were collected. Any funds that are not refunded after diligent
28 effort of the pilot or pilots to do so shall be disbursed by
29 the pilot or pilots as the board shall direct.

30 Section 3. Subsection (1) of section 399.061, Florida
31 Statutes, is amended to read:

1 399.061 Inspections; correction of deficiencies.--
2 (1)(a) All ~~For those~~ elevators subject to this chapter
3 must be inspected pursuant to s. 399.13 by a third-party
4 inspection service certified as a Qualified Elevator Inspector
5 or maintained pursuant to a service maintenance contract
6 continuously in force. A statement verifying the existence,
7 performance, and cancellation of each service maintenance
8 contract must be filed annually with the division as
9 prescribed by rule. All elevators for which a service
10 ~~maintenance contract is not continuously in force, the~~
11 ~~division shall inspect such elevators at least once between~~
12 ~~July 1 of any year and June 30 of the next year, the state's~~
13 ~~fiscal year.~~

14 ~~(b) When a service maintenance contract is~~
15 ~~continuously maintained with an elevator company, the division~~
16 ~~shall verify with the elevator company before the end of each~~
17 ~~fiscal year that the contract is in force and is being~~
18 ~~implemented. An elevator covered by such a service~~
19 ~~maintenance contract shall be inspected by a~~
20 certificate-of-competency holder ~~state elevator inspector~~ at
21 least once every 2 ~~fiscal~~ years; however, if the elevator is
22 not an escalator or a dumbwaiter and the elevator serves only
23 two adjacent floors and is covered by a service maintenance
24 contract, no inspection shall be required so long as the
25 service contract remains in effect.

26 (b)(c) ~~(c)~~ The division may inspect an elevator whenever
27 necessary to ensure its safe operation.

28 Section 4. Subsection (6) of section 455.217, Florida
29 Statutes, is amended to read:

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1 455.217 Examinations.--This section shall be read in
2 conjunction with the appropriate practice act associated with
3 each regulated profession under this chapter.

4 (6) For examinations developed by the department or a
5 contracted vendor, each board, or the department, when there
6 is no board, may provide licensure examinations in an
7 applicant's native language. Applicants for examination or
8 reexamination pursuant to this subsection shall bear the full
9 cost for the department's development, preparation,
10 administration, grading, and evaluation of any examination in
11 a language other than English or Spanish. Requests for
12 translated examinations, except for those in Spanish, must be
13 on file in the board office, or with the department when there
14 is no board, at least 6 months prior to the scheduled
15 examination. When determining whether it is in the public
16 interest to allow the examination to be translated into a
17 language other than English or Spanish, the board, or the
18 department when there is no board, shall consider the
19 percentage of the population who speak the applicant's native
20 language.

21 Section 5. Section 455.2179, Florida Statutes, is
22 amended to read:

23 455.2179 Continuing education provider approval; cease
24 and desist orders.--

25 (1) If a board, or the department if there is no
26 board, requires completion of continuing education as a
27 requirement for renewal of a license, the board, or the
28 department if there is no board, shall approve providers of
29 the continuing education. The approval of a continuing
30 education provider, ~~the approval~~ must be for a specified
31 period of time, not to exceed 4 years. An approval that does

1 not include such a time limitation may remain in effect only
2 until July 1, 2001, unless earlier replaced by an approval
3 that includes such a time limitation.

4 (2) The department, on its own motion or at the
5 request of a board, shall issue an order requiring a person or
6 entity to cease and desist from offering any continuing
7 education programs for licensees, and revoking any approval of
8 the provider previously granted by the department or a board,
9 if the department or a board determines that the person or
10 entity failed to provide appropriate continuing education
11 services that conform to approved course material.

12 (3) Each board authorized to approve continuing
13 education providers, or the department if there is no board,
14 may establish, by rule, a fee not to exceed \$250 for anyone
15 seeking approval to provide continuing education courses and
16 may establish, by rule, a biennial fee not to exceed \$250 for
17 the renewal of providership of such courses. The Florida Real
18 Estate Commission, authorized under the provisions of chapter
19 475 to approve prelicensure, precertification, and
20 postlicensure education providers, may establish, by rule, an
21 application fee not to exceed \$250 for anyone seeking approval
22 to offer prelicensure, precertification, or postlicensure
23 education courses and may establish, by rule, a biennial fee
24 not to exceed \$250 for the renewal of such courses.

25 (4) The department and each affected board may adopt
26 rules pursuant to ss. 120.536(1) and 120.54 to implement the
27 provisions of this section.

28 Section 6. Subsection (3) of section 455.219, Florida
29 Statutes, is repealed, and subsection (1) of that section is
30 amended to read:

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1 455.219 Fees; receipts; disposition; periodic
2 management reports.--

3 (1) Each board within the department shall determine
4 by rule the amount of license fees for its profession, based
5 upon department-prepared long-range estimates of the revenue
6 required to implement all provisions of law relating to the
7 regulation of professions by the department and any board;
8 however, when the department has determined, based on the
9 long-range estimates of such revenue, that a profession's
10 trust fund moneys are in excess of the amount required to
11 cover the necessary functions of the board, or the department
12 when there is no board, the department may adopt rules to
13 implement a waiver of license renewal fees for that profession
14 for a period not to exceed 2 years, as determined by the
15 department. Each board, or the department when there is no
16 board, shall ensure license fees are adequate to cover all
17 anticipated costs and to maintain a reasonable cash balance,
18 as determined by rule of the department, with advice of the
19 applicable board. If sufficient action is not taken by a board
20 within 1 year of notification by the department that license
21 fees are projected to be inadequate, the department shall set
22 license fees on behalf of the applicable board to cover
23 anticipated costs and to maintain the required cash balance.
24 The department shall include recommended fee cap increases in
25 its annual report to the Legislature. Further, it is
26 legislative intent that no regulated profession operate with a
27 negative cash balance. The department may provide by rule for
28 the advancement of sufficient funds to any profession or the
29 Florida State Boxing Commission operating with a negative cash
30 balance. Such advancement may be for a period not to exceed 2
31 consecutive years and shall require interest to be paid by the

1 regulated profession. Interest shall be calculated at the
2 current rate earned on Professional Regulation Trust Fund
3 investments. Interest earned shall be allocated to the various
4 funds in accordance with the allocation of investment earnings
5 during the period of the advance.

6 Section 7. Section 455.32, Florida Statutes, is
7 created to read:

8 455.32 Management Privatization Act.--

9 (1) This section may be cited as the "Management
10 Privatization Act."

11 (2) As used in this section, the term:

12 (a) "Corporation" means the corporation or other
13 business entity with which the department contracts pursuant
14 to subsection (3).

15 (b) "Executive director" means the person appointed by
16 the department pursuant to s. 455.203.

17 (c) "Secretary" means the Secretary of Business and
18 Professional Regulation.

19 (3) Based upon the request of any board, commission,
20 or council, the department is authorized to contract with a
21 corporation or other business entity to perform support
22 services specified in the contract. The contract must be in
23 compliance with this section and other applicable laws and
24 must be approved by the board before the department enters
25 into the contract. The department shall retain responsibility
26 for any duties it currently exercises relating to its police
27 powers and any other current duty that is not provided to the
28 corporation by the contract. The contract shall provide, at a
29 minimum, that:

30 (a) The corporation provide administrative,
31 investigative, examination, licensing, and prosecutorial

1 support services in accordance with the provisions of this
2 section and the practice act of the relevant profession. With
3 approval of the department, the corporation may subcontract
4 for any of these services.

5 (b) The corporation utilize computer technology
6 compatible with the department to ensure compatibility and
7 availability to the public of information provided for other
8 professions by the department.

9 (c) The corporation submit an annual budget for
10 approval by the board and the department.

11 (d) The corporation keep financial and statistical
12 information as necessary to completely disclose the financial
13 condition and operation of the project and as requested by the
14 Office of Program Policy Analysis and Government
15 Accountability, the Auditor General, and the department.

16 (e) If the certification process in subsection (10)
17 determines noncompliance, the contract provide for methods and
18 mechanisms to resolve the situation.

19 (f) The corporation provide to the board and the
20 department, on or before October 1 of each year, a report
21 describing all of the activities of the corporation for the
22 previous fiscal year. The report shall include:

23 1. Any audit performed under subsection (9), including
24 financial reports and performance audits.

25 2. The number of license applications received, the
26 number of licenses approved and denied, the number of licenses
27 issued, and the average time required to issue a license.

28 3. The number of examinations administered and the
29 number of applicants who passed or failed the examination.

30 4. The number of complaints received, the number of
31 complaints determined to be legally sufficient, the number of

1 complaints dismissed, and the number of complaints determined
2 to have probable cause.

3 5. The number of administrative complaints issued and
4 the status of the complaints.

5 6. The number and nature of disciplinary actions taken
6 by the board.

7 7. All revenue received and all expenses incurred by
8 the corporation over the previous 12 months in its performance
9 of the duties under the contract.

10 8. The status of the compliance of the corporation
11 with all performance-based program measures adopted by the
12 board.

13 (4) The provisions of s. 768.28 apply to the
14 corporation, which is deemed to be a corporation primarily
15 acting as an instrumentality of the state, but which is not an
16 agency within the meaning of s. 20.03(11).

17 (5) The corporation shall be funded through
18 appropriations allocated to the regulation of the relevant
19 profession from the Professional Regulation Trust Fund.

20 (6) If the corporation is no longer approved to
21 operate for the board or the board ceases to exist, moneys and
22 property held in trust by the corporation for the benefit of
23 the board shall revert to the board, or to the state if the
24 board ceases to exist.

25 (7) The executive director shall supervise the
26 activities of the corporation to ensure compliance with the
27 contract and provisions of this section and the practice act
28 of the relevant profession. The executive director shall be an
29 employee of the department and serve as a liaison between the
30 department, the board, and the corporation and shall ensure

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1 that the police powers of the state are not exercised by the
2 corporation.

3 (8) The corporation may not exercise any authority
4 assigned to the department or board under this section or the
5 practice act of the relevant profession, including determining
6 legal sufficiency and probable cause to pursue disciplinary
7 action against a licensee, taking final action on license
8 applications or in disciplinary cases, or adopting
9 administrative rules under chapter 120.

10 (9) The corporation shall provide for an annual
11 financial and compliance audit of its financial accounts and
12 records by an independent certified public accountant in
13 accordance with generally accepted government auditing
14 standards. The annual audit report shall include a detailed
15 supplemental schedule of expenditures for each expenditure
16 category and a management letter. The annual audit report must
17 be submitted to the board, the department, and the Auditor
18 General for review. The Auditor General may, pursuant to his
19 or her authority or at the direction of the Legislative
20 Auditing Committee, conduct an audit of the corporation.

21 (10) The board and the department shall annually
22 certify that the corporation is complying with the terms of
23 the contract in a manner consistent with the goals and
24 purposes of the board and in the best interest of the state.

25 (11) Nothing in this section shall limit the ability
26 of the corporation to enter into contracts and perform all
27 other acts incidental to those contracts that are necessary
28 for the administration of its affairs and for the attainment
29 of its purposes.

30 (12) The corporation may acquire by lease, and
31 maintain, use, and operate, any real or personal property

1 necessary to perform the duties provided by the contract and
2 this section.

3 (13) No later than October 1, 2000, the department
4 shall contract with a corporation in accordance with
5 subsection (3) for the provision of services for architects
6 and interior designers.

7 (14) The department shall retain the independent
8 authority to open, investigate, or prosecute any cases or
9 complaints, as necessary, to protect the public health,
10 safety, or welfare. In addition, the department shall retain
11 sole authority to issue emergency suspension or restriction
12 orders pursuant to s. 120.60 and to prosecute unlicensed
13 activity cases pursuant to ss. 455.228 and 455.2281.

14 (15) Corporation records are public records subject to
15 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
16 State Constitution; however, public records exemptions set
17 forth in ss. 455.217 and 455.229 for records created or
18 maintained by the department shall apply to records created or
19 maintained by the corporation. The exemptions set forth in s.
20 455.225, relating to complaints and information obtained
21 pursuant to an investigation by the department, shall apply to
22 such records created or obtained by the corporation only until
23 an investigation ceases to be active. For the purposes of this
24 subsection, an investigation is considered active so long as
25 the corporation or any law enforcement or administrative
26 agency is proceeding with reasonable dispatch and has a
27 reasonable, good-faith belief that it may lead to the filing
28 of administrative, civil, or criminal proceedings. An
29 investigation ceases to be active when the case is dismissed
30 prior to a finding of probable cause and the board has not
31 exercised its option to pursue the case or 10 days after the

1 board makes a determination regarding probable cause. All
2 information, records, and transcriptions regarding a complaint
3 that has been determined to be legally sufficient to state a
4 claim within the jurisdiction of the board become available to
5 the public when the investigation ceases to be active, except
6 information that is otherwise confidential or exempt from s.
7 119.07(1). However, in response to an inquiry about the
8 licensure status of an individual, the corporation shall
9 disclose the existence of an active investigation if the
10 nature of the violation under investigation involves the
11 potential for substantial physical or financial harm. The
12 department and the board shall have access to all records of
13 the corporation, as necessary, to exercise their authority to
14 approve and supervise the contract.

15 (16) If any provision of this section is held to be
16 unconstitutional or is held to violate the state or federal
17 antitrust laws, the following shall occur:

18 (a) The corporation shall cease and desist from
19 exercising any powers and duties enumerated in this section.

20 (b) The department shall resume the performance of
21 such activities. The department shall regain and receive,
22 hold, invest, and administer property and make expenditures
23 for the benefit of the board.

24 (c) The Executive Office of the Governor,
25 notwithstanding chapter 216, is authorized to reestablish
26 positions, budget authority, and salary rate necessary to
27 carry out the department's responsibilities related to the
28 board.

29 (17) This section is repealed on October 1, 2005, and
30 shall be reviewed by the Legislature prior to that date for
31 the purpose of determining its continued existence.

1 Section 8. Subsection (8) is added to section 468.382,
2 Florida Statutes, to read:

3 468.382 Definitions.--As used in this act, the term:
4 (8) "Absolute auction" means an auction that requires
5 no minimum opening bid that limits the sale other than to the
6 highest bidder.

7 Section 9. Subsections (4), (6), and (7) of section
8 468.385, Florida Statutes, are amended to read:

9 468.385 Licenses required; qualifications;
10 examination; bond.--

11 (4) Any person seeking a license as an auctioneer must
12 ~~shall~~ pass a written examination approved by the board
13 ~~prepared and administered by the department~~ which tests his or
14 her general knowledge of the laws of this state relating to
15 provisions of the Uniform Commercial Code that are relevant to
16 ~~bulk sales, auctions, the laws of agency brokerage,~~ and the
17 provisions of this act.

18 (6) No person shall be licensed as an auctioneer
19 unless he or she:

20 (a) Has held an apprentice license and has served as
21 an apprentice for 1 year or more, or has completed a course of
22 study, consisting of not less than 80 classroom hours of
23 instruction, that meets standards adopted by the board;

24 (b) Has passed the required ~~an~~ examination ~~conducted~~
25 ~~by the department~~; and

26 (c) Is approved by the board.

27 (7)(a) Any auction that is subject to the provisions
28 of this part must be conducted by an auctioneer who has an
29 active license or an apprentice who has an active apprentice
30 auctioneer license and who has received prior written sponsor
31 consent.

1 **(b)** No business shall auction or offer to auction any
2 property in this state unless it is licensed as an auction
3 business by the board or is exempt from licensure under this
4 act. Each application for licensure shall include the names
5 of the owner and the business, the business mailing address
6 and location, and any other information which the board may
7 require. The owner of an auction business shall report to the
8 board within 30 days of any change in this required
9 information.

10 Section 10. Section 468.3855, Florida Statutes, is
11 created to read:

12 468.3855 Apprenticeship training requirements.--

13 (1) An auctioneer may not sponsor more than three
14 apprentices at one time. Any auctioneer who serves as a
15 sponsor must have held an active, valid license for 3
16 consecutive years preceding the date on which that auctioneer
17 is named as sponsor of the apprentice.

18 (2) Any auctioneer who undertakes the sponsorship of
19 an apprentice shall ensure that the apprentice receives
20 training as required by board rule.

21 (3) An apprentice must actively participate in auction
22 sales as required by board rule, and a record of each auction
23 for which participation credit is claimed must be made as
24 required by board rule.

25 (4) Apprentices are prohibited from conducting any
26 auction without the prior express written consent of the
27 sponsor. The apprentice's sponsor must be present at the
28 auction site at any time the apprentice is actively
29 participating in the conduct of the auction. If the
30 apprentice's sponsor cannot attend a particular auction, the
31 sponsor may appoint a qualified auctioneer who meets the

1 requirements of board rule to attend the auction in his or her
2 place. Prior written consent must be given by the apprentice's
3 sponsor for each substitution.

4 (5) Each apprentice and sponsor shall file reports as
5 required by board rule.

6 (6) A sponsor may not authorize an apprentice to
7 conduct an auction or act as principal auctioneer unless the
8 sponsor has determined that the apprentice has received
9 adequate training to do so.

10 (7) The sponsor shall be responsible for any acts or
11 omissions of the apprentice which constitute a violation of
12 law in relation to the conduct of an auction.

13 (8) All apprentice applications shall be valid for a
14 period of 6 months after board approval. Any applicant who
15 fails to complete the licensure process within that time shall
16 be required to make application as a new applicant.

17 (9) Any licensed apprentice who wishes to change the
18 sponsor under whom he or she is licensed must submit a new
19 application and application fee. However, a new license fee
20 shall not be required and credit shall be awarded for training
21 received or any period of apprenticeship served under the
22 previous sponsor.

23 (10) Credit for training received or any period of
24 apprenticeship served shall not be allowed unless it occurred
25 under the supervision of the sponsor under whose supervision
26 the apprentice is licensed.

27 Section 11. Section 468.388, Florida Statutes, is
28 amended to read:

29 468.388 Conduct of an auction.--

30 (1) Prior to conducting an auction in this state, an
31 auctioneer or auction business shall execute a written

1 agreement with the owner, or the agent of the owner, of any
2 property to be offered for sale, stating:
3 (a) The name and address of the owner of the property;
4 (b) The name and address of the person employing the
5 auctioneer or auction business, if different from the owner;
6 and
7 (c) The terms or conditions upon which the auctioneer
8 or auction business will receive the property for sale and
9 remit the sales proceeds to the owner.
10 (2) The auctioneer or auction business shall give the
11 owner one copy of the agreement and shall keep one copy for 2
12 years after the date of the auction.
13 ~~(3) A written agreement shall not be required if:~~
14 ~~(a) The auction is to be conducted at an auction house~~
15 ~~or similar place where the public regularly offers property~~
16 ~~for sale;~~
17 ~~(b) There has been no prior negotiation between the~~
18 ~~owner or the owner's agent and the auctioneer or auction~~
19 ~~business involving terms or conditions pertaining to the~~
20 ~~property being offered for sale; and~~
21 ~~(c) The total estimated value of the property is \$500~~
22 ~~or less. If the actual sale price of the property exceeds~~
23 ~~\$550, the written agreement required by subsection (1) shall~~
24 ~~be executed after the sale.~~
25 (3)(4) Each auctioneer or auction business shall
26 maintain a record book of all sales ~~for which a written~~
27 ~~agreement is required.~~ The record book shall be open to
28 inspection by the board at reasonable times.
29 (4) Each auction must be conducted by an auctioneer
30 who has an active license or by an apprentice who has an
31 active apprentice auctioneer license and who has received

1 prior written sponsor consent. Each auction must be conducted
2 under the auspices of a licensed auction business. Any
3 auctioneer or apprentice auctioneer conducting an auction, and
4 any auction business under whose auspices such auction is
5 held, shall be responsible for determining that any
6 auctioneer, apprentice, or auction business with whom they are
7 associated in conducting such auction has an active Florida
8 auctioneer, apprentice, or auction business license.

9 (5) The principal auctioneer shall prominently display
10 at the auction site the licenses of the principal auctioneer,
11 the auction business, and any other licensed auctioneers or
12 apprentices who are actively participating in the auction. If
13 such a display is not practicable, then an oral announcement
14 at the beginning of the auction or a prominent written
15 announcement that these licenses are available for inspection
16 at the auction site must be made.~~Each auctioneer or auction~~
17 ~~business shall prominently display his or her license, or make~~
18 ~~it otherwise available for inspection, at each auction in~~
19 ~~which he or she participates.~~

20 (6) If a buyer premium or any surcharge is a condition
21 to sale at any auction, the amount of the premium or surcharge
22 must be announced at the beginning of the auction and a
23 written notice of this information must be conspicuously
24 displayed or distributed to the public at the auction site.

25 (7) At the beginning of an auction must be announced
26 the terms of bidding and sale and whether the sale is with
27 reserve, without reserve, or absolute or if a minimum bid is
28 required. If the sale is absolute and has been announced or
29 advertised as such, an article or lot may not be withdrawn
30 from sale once a bid has been accepted. If no bid is received
31 within a reasonable time, the item or lot may be withdrawn.

1 (8) If an auction has been advertised as absolute, no
2 bid shall be accepted from the owner of the property or from
3 someone acting on behalf of the owner unless the right to bid
4 is specifically permitted by law.

5 (9) The auction business under which the auction is
6 conducted is responsible for all other aspects of the auction
7 as required by board rule. The auction business may delegate
8 in whole, or in part, different aspects of the auction only to
9 the extent that such delegation is permitted by law and that
10 such delegation will not impede the principal auctioneer's
11 ability to ensure the proper conduct of his or her independent
12 responsibility for the auction. The auction business under
13 whose auspices the auction is conducted is responsible for
14 ensuring compliance as required by board rule.

15 (10)(a) When settlement is not made immediately after
16 an auction, all sale proceeds received for another person must
17 be deposited in an escrow or trust account in an insured bank
18 or savings and loan association located in this state within 2
19 working days after the auction. A maximum of \$100 may be kept
20 in the escrow account for administrative purposes.

21 (b) Each auction business shall maintain, for not less
22 than 2 years, a separate ledger showing the funds held for
23 another person deposited and disbursed by the auction business
24 for each auction. The escrow or trust account must be
25 reconciled monthly with the bank statement. A signed and dated
26 record shall be maintained for a 2-year period and be
27 available for inspection by the department or at the request
28 of the board.

29 (c) Any interest which accrues to sale proceeds on
30 deposit shall be the property of the seller for whom the funds
31

1 were received unless the parties have agreed otherwise by
2 written agreement executed prior to the auction.

3 (d) Unless otherwise provided by written agreement
4 executed prior to the auction, funds received by a licensee
5 from the seller or his or her agent for expenses, including
6 advertising, must be expended for the purposes advanced or
7 refunded to the seller at the time of final settlement. Any
8 funds so received shall be maintained in an escrow or trust
9 account in an insured bank or savings and loan association
10 located in this state. However, this does not prohibit
11 advanced payment of a flat fee.

12 (11)(a)(6) All advertising by an auctioneer or auction
13 business shall include the name and Florida license number of
14 such auctioneer and auction business. The term "advertising"
15 shall not include articles of clothing, directional signs, or
16 other promotional novelty items.

17 (b) No licensed auctioneer, apprentice, or auction
18 business may disseminate or cause to be disseminated any
19 advertisement or advertising which is false, deceptive,
20 misleading, or untruthful. Any advertisement or advertising
21 shall be deemed to be false, deceptive, misleading, or
22 untruthful if it:

23 1. Contains misrepresentations of facts.

24 2. Is misleading or deceptive because, in its content
25 or in the context in which it is presented, it makes only a
26 partial disclosure of relevant facts.

27 3. Creates false or unjustified expectations of the
28 services to be performed.

29 4. Contains any representation or claim which the
30 advertising licensee fails to perform.

31

1 5. Fails to include the name and license number of the
2 principal auctioneer and the auction business.

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

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

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

11 (c) The provisions of this subsection apply to media
12 exposure of any nature, regardless of whether it is in the
13 form of paid advertising.

14 (d) The auction business shall be responsible for the
15 content of all advertising disseminated in preparation for an
16 auction.

17 Section 12. Paragraph (c) of subsection (1) of section
18 468.389, Florida Statutes, is amended to read:

19 468.389 Prohibited acts; penalties.--

20 (1) The following acts shall be grounds for the
21 disciplinary activities provided in subsections (2) and (3):

22 (c) Failure to account for or to pay or return, within
23 a reasonable time not to exceed 30 days, money or property
24 belonging to another which has come into the control of an
25 auctioneer or auction business through an auction.

26 Section 13. For the purpose of incorporating the
27 amendment to section 468.389, Florida Statutes, in references
28 thereto, subsection (3) of section 468.385 and section
29 468.391, Florida Statutes, are reenacted to read:

30 468.385 Licenses required; qualifications;
31 examination; bond.--

1 (3) No person shall be licensed as an auctioneer or
2 apprentice if he or she:

3 (a) Is under 18 years of age; or

4 (b) Has committed any act or offense in this state or
5 any other jurisdiction which would constitute a basis for
6 disciplinary action under s. 468.389.

7 468.391 Penalty.--Any auctioneer, apprentice, or
8 auction business or any owner or manager thereof, or, in the
9 case of corporate ownership, any substantial stockholder of
10 the corporation owning the auction business, who operates
11 without an active license or violates any provision of the
12 prohibited acts listed under s. 468.389 commits a felony of
13 the third degree, punishable as provided in s. 775.082 or s.
14 775.083.

15 Section 14. Subsection (2) of section 468.392, Florida
16 Statutes, is amended to read:

17 468.392 Auctioneer Recovery Fund.--There is created
18 the Auctioneer Recovery Fund as a separate account in the
19 Professional Regulation Trust Fund. The fund shall be
20 administered by the Florida Board of Auctioneers.

21 (2) All payments and disbursements from the Auctioneer
22 Recovery Fund shall be made by the Treasurer upon a voucher
23 signed by the Secretary of Business and Professional
24 Regulation or the secretary's designee. Amounts transferred to
25 the Auctioneer Recovery Fund shall not be subject to any
26 limitation imposed by an appropriation act of the Legislature.

27 Section 15. Section 468.395, Florida Statutes, is
28 amended to read:

29 468.395 Conditions of recovery; eligibility.--

30 (1) Recovery from the Auctioneer Recovery Fund may be
31 obtained as follows:

1 (a) Any aggrieved person is eligible to receive
2 recovery from the Auctioneer Recovery Fund if the Florida
3 Board of Auctioneers has issued a final order directing an
4 offending licensee to pay restitution to the claimant as the
5 result of the licensee violating, within this state, any
6 provision of s. 468.389 or any rule adopted by the board and
7 if the board determined that the order of restitution cannot
8 be enforced; or

9 (b)(1) Any aggrieved person who obtains a final
10 judgment in any court against any licensee to recover damages
11 for any actual loss that results from the violation, within
12 this state, by failure to meet the obligations of a licensee
13 of any provision of s. 468.389 or any rule under this part and
14 the rules adopted by the board, with or without findings by
15 the board, that results in an actual cash loss to the
16 aggrieved person may, upon termination of all proceedings,
17 including appeals and proceedings supplemental to judgment for
18 collection purposes, file a verified application to the board
19 in the court in which the judgment was entered for an order
20 directing payment out of the Auctioneer Recovery Fund of the
21 amount of actual ~~and direct~~ loss in the transaction that
22 remains unpaid upon the judgment. ~~Notwithstanding subsection~~
23 ~~(3), any application received by the court in which the~~
24 ~~judgment was entered within 6 months of termination of all~~
25 ~~proceedings, including appeals and proceedings supplemental to~~
26 ~~judgment for collection purposes, shall be considered timely~~
27 ~~filed.~~ The amount of actual ~~and direct~~ loss may include court
28 costs, but shall not include attorney's fees or punitive
29 damages awarded.

30 (2) The amount paid from the Auctioneer Recovery Fund
31 may not exceed \$50,000 per claim judgment or claims judgments

1 arising out of the same transaction or auction or ~~and~~ an
2 aggregate lifetime limit of \$100,000 with respect to any one
3 licensee. For purposes of this subsection, auctions conducted
4 under a single contract, agreement, or consignment shall be
5 considered a single transaction or auction even though
6 conducted at more than one time or place.

7 ~~(2) At the time the action is commenced, such person~~
8 ~~shall give notice thereof to the board by certified mail,~~
9 ~~except that, if no notice is given to the board, the claim may~~
10 ~~still be honored if, in the opinion of the board, the claim is~~
11 ~~otherwise valid.~~

12 (3) A claim for recovery from the Auctioneer Recovery
13 Fund shall be made within 2 years from the time of the act
14 giving rise to the claim or within 2 years from the time the
15 act is discovered or should have been discovered with the
16 exercise of due diligence; however, in no event may a claim
17 for recovery be made more than 4 years after the date of the
18 act giving rise to the claim.

19 (4) The board ~~court~~ shall not issue an order for
20 payment of a claim from the Auctioneer Recovery Fund unless
21 the claimant has reasonably established to ~~for~~ the board ~~court~~
22 that she or he has taken proper and reasonable action to
23 collect the amount of her or his claim from the licensee
24 ~~licensed auctioneer~~ responsible for the loss and that any
25 recovery made has been applied to reduce the amount of the
26 claim on the Auctioneer Recovery Fund.

27 (5) Notwithstanding any other provision of this part,
28 no claim based on any act or omission that occurred outside
29 this state or that occurred before October 1, 1991, shall be
30 payable ~~submitted for payment to or payment~~ from the
31 Auctioneer Recovery Fund ~~until after October 1, 1995.~~

1 (6) In case of payment of loss from the Auctioneer
2 Recovery Fund, the fund shall be subrogated, to the extent of
3 the amount of the payment, to all the rights of the claimant
4 against any licensee with respect to the loss.

5 Section 16. Section 468.397, Florida Statutes, is
6 amended to read:

7 468.397 Payment of claim.--Upon a final order of the
8 court directing that payment be made out of the Auctioneer
9 Recovery Fund, the board shall, subject to the provisions of
10 this part, make the payment out of ~~to~~ the Auctioneer Recovery
11 Fund as provided in s. 468.395.

12 Section 17. Section 468.433, Florida Statutes, is
13 amended to read:

14 468.433 Licensure by examination.--

15 (1) A person desiring to be licensed as a community
16 association manager shall apply to the department to take the
17 licensure examination. Each applicant must file a complete
18 set of fingerprints that have been taken by an authorized law
19 enforcement officer, which set of fingerprints shall be
20 submitted to the Department of Law Enforcement for state
21 processing and to the Federal Bureau of Investigation for
22 federal processing. The cost of processing shall be borne by
23 the applicant.

24 (2) The department shall examine each applicant who is
25 at least 18 years of age, who has successfully completed all
26 prelicensure education requirements,and who the department
27 certifies is of good moral character.

28 (a) Good moral character means a personal history of
29 honesty, fairness, and respect for the rights of others and
30 for the laws of this state and nation.

31

1 (b) The department may refuse to certify an applicant
2 only if:

3 1. There is a substantial connection between the lack
4 of good moral character of the applicant and the professional
5 responsibilities of a community association manager; and

6 2. The finding by the department of lack of good moral
7 character is supported by clear and convincing evidence.

8 (c) When an applicant is found to be unqualified for a
9 license because of a lack of good moral character, the
10 department shall furnish the applicant a statement containing
11 its findings, a complete record of the evidence upon which the
12 determination was based, and a notice of the rights of the
13 applicant to a rehearing and appeal.

14 (d) The council shall establish by rule the required
15 amount of prelicensure education, which shall consist of not
16 more than 24 hours of in-person instruction by a
17 department-approved provider and which shall cover all areas
18 of the examination specified in subsection (3). Such
19 instruction shall be completed within 12 months prior to the
20 date of the examination. Prelicensure education providers
21 shall be considered continuing education providers for
22 purposes of establishing provider approval fees. A licensee
23 shall not be required to comply with the continuing education
24 requirements of s. 468.4337 prior to the first license
25 renewal. The department shall, by rule, set standards for
26 exceptions to the requirement of in-person instruction in
27 cases of hardship or disability.

28 ~~(3)(2)~~ The council shall approve an examination for
29 licensure. The examination must demonstrate that the
30 applicant has a fundamental knowledge of state and federal
31 laws relating to the operation of all types of community

1 associations and state laws relating to corporations and
2 nonprofit corporations, proper preparation of community
3 association budgets, proper procedures for noticing and
4 conducting community association meetings, insurance matters
5 relating to community associations, and management skills.

6 (4)~~(3)~~ The department shall issue a license to
7 practice in this state as a community association manager to
8 any applicant who successfully completes the examination in
9 accordance with this section and pays the appropriate fee.

10 Section 18. Paragraph (h) of subsection (3) of section
11 468.525, Florida Statutes, is repealed.

12 Section 19. Subsection (2) of section 468.526, Florida
13 Statutes, is amended to read:

14 468.526 License required; fees.--

15 (2) Two or more, but not more than five, employee
16 leasing companies that are ~~corporations which are~~ majority
17 owned by the same ultimate parent, entity, or persons may be
18 licensed as an employee leasing company group. An employee
19 leasing company group may satisfy the reporting and financial
20 requirements of this licensing law on a consolidated basis.
21 As a condition of licensure as an employee leasing company
22 group, each company that is a member of the group shall
23 guarantee payment of all financial obligations of each other
24 member.

25 Section 20. Section 468.531, Florida Statutes, is
26 amended to read:

27 468.531 Prohibitions; penalties.--

28 (1) No person or entity shall:

29 (a) Practice or offer to practice as an employee
30 leasing company, an employee leasing company group, or a
31

1 controlling person unless such person or entity is licensed
2 pursuant to this part;

3 (b) Practice or offer to practice as an employee
4 leasing company or employee leasing company group unless all
5 controlling persons thereof are licensed pursuant to this
6 part;

7 (c) Use the name or title "licensed employee leasing
8 company," "employee leasing company," "employee leasing
9 company group," "professional employer," "professional
10 employer organization," ~~or~~ "controlling person," or words that
11 would tend to lead one to believe that such person or entity
12 is registered pursuant to this part, when such person or
13 entity has not registered pursuant to this part;

14 (d) Present as his or her own or his or her entity's
15 own the license of another;

16 (e) Knowingly give false or forged evidence to the
17 board or a member thereof; or

18 (f) Use or attempt to use a license that has been
19 suspended or revoked.

20 (2) Any person or entity that violates any provision
21 of this section commits a misdemeanor of the first degree,
22 punishable as provided in s. 775.082 or s. 775.083.

23 Section 21. Subsection (3) of section 470.005, Florida
24 Statutes, is amended to read:

25 470.005 Rulemaking authority of board and
26 department.--

27 (3) The board shall adopt rules which establish
28 requirements for inspection of direct disposal establishments,
29 funeral establishments, and cinerator facilities and the
30 records directly relating to the regulated activities of the
31 licensee to ensure compliance with the provisions of this

1 chapter and rules adopted hereunder. Such rules shall
2 include, but not be limited to, requirements to inspect for
3 compliance with federal and state laws relating to the
4 receiving, handling, storage, and disposal of biohazardous and
5 hazardous waste.

6 Section 22. Section 470.015, Florida Statutes, is
7 amended to read:

8 470.015 Renewal of funeral director and embalmer
9 licenses.--

10 (1) The department shall renew a funeral director or
11 embalmer license upon receipt of the renewal application and
12 fee set by the board not to exceed \$250. The board may
13 prescribe by rule continuing education requirements of up to
14 12 classroom hours and may by rule establish criteria for
15 accepting alternative nonclassroom continuing education on an
16 hour-for-hour basis, in addition to a board-approved course on
17 communicable diseases that includes the course on human
18 immunodeficiency virus and acquired immune deficiency syndrome
19 required by s. 455.2226, for the renewal of a funeral director
20 or embalmer license. The board may provide for the waiver of
21 continuing education requirements in circumstances that would
22 justify the waiver, such as hardship, disability, or illness.
23 The continuing education requirement is not required after
24 July 1, 1996, for a licensee who is over the age of 75 years
25 if the licensee does not qualify as the sole person in charge
26 of an establishment or facility.

27 (2) The department shall adopt rules establishing a
28 procedure for the biennial renewal of licenses.

29 (3) The board shall adopt rules to establish
30 requirements for the advertising of continuing education
31 courses.

1 Section 23. Subsection (1) of section 470.016, Florida
2 Statutes, is amended to read:

3 470.016 Inactive status.--

4 (1) A funeral director or embalmer license that has
5 become inactive may be reactivated under s. 470.015 upon
6 application to the department. The board shall prescribe by
7 rule continuing education requirements as a condition of
8 reactivating a license. The continuing education requirements
9 for reactivating a license may not exceed 12 classroom hours
10 and may by rule establish criteria for accepting alternative
11 nonclassroom continuing education on an hour-for-hour basis,
12 in addition to a board-approved course on communicable
13 diseases, for each year the license was inactive.

14 Section 24. Subsection (2) of section 470.017, Florida
15 Statutes, is amended to read:

16 470.017 Registration as a direct disposer.--

17 (2) Any person who desires to be registered as a
18 direct disposer shall file an application with the department
19 on a form furnished by the department. The department shall
20 register each applicant who has remitted a registration fee
21 set by the board ~~department~~, not to exceed \$200; has completed
22 the application form and remitted a nonrefundable application
23 fee set by the board ~~department~~, not to exceed \$50; and meets
24 the following requirements:

25 (a) Is at least 18 years of age.

26 (b) Is a high school graduate or equivalent.

27 (c) Has no conviction or finding of guilt, and has
28 never entered a plea of nolo contendere, regardless of
29 adjudication, for a crime which directly relates to the
30 functions and duties of a direct disposer or the ability to
31 practice ~~of~~ direct disposition.

1 (d) Has received a passing grade in a college credit
2 course in Florida mortuary law.

3 (e) Has completed a board-approved course on
4 communicable diseases.

5 (f) Has passed an examination prepared by the
6 department on the local, state, and federal laws and rules
7 relating to the disposition of dead human bodies.

8 Section 25. Subsection (2) of section 470.018, Florida
9 Statutes, is amended to read:

10 470.018 Renewal of registration of direct disposer.--

11 (2) The department shall adopt rules establishing a
12 procedure for the biennial renewal of registrations. The
13 board shall prescribe by rule continuing education
14 requirements of up to 3 classroom hours and may by rule
15 establish criteria for accepting alternative nonclassroom
16 continuing education on an hour-for-hour basis, in addition to
17 a board-approved course on communicable diseases that includes
18 the course on human immunodeficiency virus and acquired immune
19 deficiency syndrome required by s. 455.2226, for the renewal
20 of a registration.

21 Section 26. Subsection (10) is added to section
22 470.021, Florida Statutes, to read:

23 470.021 Direct disposal establishment; standards and
24 location; registration.--

25 (10) A direct disposal establishment may not be
26 operated at the same location as any other direct disposal
27 establishment or funeral establishment unless such
28 establishments were licensed as colocated establishments on
29 July 1, 2000.

30 Section 27. Section 470.028, Florida Statutes, is
31 amended to read:

1 470.028 Preneed sales; registration of agents.--

2 (1) All sales of preneed funeral service contracts or
3 direct disposition contracts shall be made pursuant to chapter
4 497.

5 (2) No person may act as an agent for a ~~funeral~~
6 ~~director~~, funeral establishment, ~~direct disposer~~, or direct
7 disposal disposer establishment with respect to the sale of
8 preneed contracts unless such person is registered pursuant to
9 chapter 497.

10 (3) Each licensee or registrant shall be subject to
11 discipline if his or her agent violates any provision of this
12 chapter applicable to such licensee or registrant as
13 established by board rule.

14 Section 28. Subsection (2) of section 470.0301,
15 Florida Statutes, is amended to read:

16 470.0301 Removal services; refrigeration facilities;
17 centralized embalming facilities.--In order to ensure that the
18 removal, refrigeration, and embalming of all dead human bodies
19 is conducted in a manner that properly protects the public's
20 health and safety, the board shall adopt rules to provide for
21 the registration of removal services, refrigeration
22 facilities, and centralized embalming facilities operated
23 independently of funeral establishments, direct disposal
24 establishments, and cinerator facilities.

25 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
26 ensure that all funeral establishments have access to
27 embalming facilities that comply with all applicable health
28 and safety requirements, the board shall adopt rules to
29 provide for the registration and operation of centralized
30 embalming facilities and shall require, at a minimum, the
31 following:

1 (a) All centralized embalming facilities shall contain
2 all of the equipment and meet all of the requirements that a
3 preparation room located in a funeral establishment is
4 required to meet, but such facilities shall not be required to
5 comply with any of the other requirements for funeral
6 establishments, as set forth in s. 470.024.

7 (b) Each licensed centralized embalming facility shall
8 have at least one full-time embalmer in charge. The full-time
9 embalmer in charge must have an active license and may not be
10 the full-time embalmer in charge, full-time funeral director
11 in charge, or full-time direct disposer in charge of any other
12 establishment licensed under this chapter.

13 (c) Any person, regardless of whether such person is
14 otherwise regulated by this chapter, may own such a facility,
15 provided that such facility is operated in accordance with the
16 rules established by the board.

17 (d) A centralized embalming facility may only provide
18 services to funeral establishments.

19 (e) The practice of embalming done at a centralized
20 embalming facility shall only be practiced by an embalmer
21 licensed under this chapter and shall be provided only to
22 licensed funeral establishments.

23 (f) Application for registration of a centralized
24 embalming facility shall be made on forms furnished by the
25 department and shall be accompanied by a nonrefundable fee not
26 to exceed \$300 as set by board rule, and registration shall be
27 renewed biennially pursuant to procedures and upon payment of
28 a nonrefundable fee not to exceed \$300 as set by board rule.
29 The board may also establish by rule a late fee not to exceed
30 \$50. Any registration not renewed within 30 days after the
31

1 renewal date shall expire without further action by the
2 department.

3 (g) The board shall set by rule an annual inspection
4 fee not to exceed \$100, payable upon application for
5 registration and upon renewal of such registration.

6 (h) The board shall, by rule, establish operating
7 procedures which shall require, at a minimum, that centralized
8 embalming facilities maintain a system of identification of
9 human remains received for embalming.

10 Section 29. Subsections (2) and (3) of section
11 471.003, Florida Statutes, are amended to read:

12 471.003 Qualifications for practice, exemptions.--

13 (2) The following persons are not required to register
14 under the provisions of this chapter ~~ss. 471.001-471.037~~ as a
15 registered engineer:

16 (a) Any person practicing engineering for the
17 improvement of, or otherwise affecting, property legally owned
18 by her or him, unless such practice involves a public utility
19 or the public health, safety, or welfare or the safety or
20 health of employees. This paragraph shall not be construed as
21 authorizing the practice of engineering through an agent or
22 employee who is not duly registered under the provisions of
23 this chapter ~~ss. 471.001-471.037~~.

24 (b)1. A person acting as a public officer employed by
25 any state, county, municipal, or other governmental unit of
26 this state when working on any project the total estimated
27 cost of which is \$10,000 or less.

28 2. Persons who are employees of any state, county,
29 municipal, or other governmental unit of this state and who
30 are the subordinates of a person in responsible charge
31 registered under this chapter ~~ss. 471.001-471.037~~, to the

1 extent that the supervision meets standards adopted by rule of
2 the board.

3 (c) Regular full-time employees of a corporation not
4 engaged in the practice of engineering as such, whose practice
5 of engineering for such corporation is limited to the design
6 or fabrication of manufactured products and servicing of such
7 products.

8 (d) Regular full-time employees of a public utility or
9 other entity subject to regulation by the Florida Public
10 Service Commission, Federal Energy Regulatory Commission, or
11 Federal Communications Commission.

12 (e) Employees of a firm, corporation, or partnership
13 who are the subordinates of a person in responsible charge,
14 registered under this chapter ~~ss. 471.001-471.037~~.

15 (f) Any person as contractor in the execution of work
16 designed by a professional engineer or in the supervision of
17 the construction of work as a foreman or superintendent.

18 (g) A registered surveyor and mapper who takes, or
19 contracts for, professional engineering services incidental to
20 her or his practice of surveying and mapping and who delegates
21 such engineering services to a registered professional
22 engineer qualified within her or his firm or contracts for
23 such professional engineering services to be performed by
24 others who are registered professional engineers under the
25 provisions of this chapter ~~ss. 471.001-471.037~~.

26 (h) Any electrical, plumbing, air-conditioning, or
27 mechanical contractor whose practice includes the design and
28 fabrication of electrical, plumbing, air-conditioning, or
29 mechanical systems, respectively, which she or he installs by
30 virtue of a license issued under chapter 489, under part I of
31

1 chapter 553, or under any special act or ordinance when
2 working on any construction project which:
3 1. Requires an electrical or plumbing or
4 air-conditioning and refrigeration system with a value of
5 \$50,000 or less; and
6 2.a. Requires an aggregate service capacity of 600
7 amperes (240 volts) or less on a residential electrical system
8 or 800 amperes (240 volts) or less on a commercial or
9 industrial electrical system;
10 b. Requires a plumbing system with fewer than 250
11 fixture units; or
12 c. Requires a heating, ventilation, and
13 air-conditioning system not to exceed a 15-ton-per-system
14 capacity, or if the project is designed to accommodate 100 or
15 fewer persons.
16 (i) Any general contractor, certified or registered
17 pursuant to the provisions of chapter 489, when negotiating or
18 performing services under a design-build contract as long as
19 the engineering services offered or rendered in connection
20 with the contract are offered and rendered by an engineer
21 licensed or registered in accordance with this chapter.
22 (3) Notwithstanding the provisions of this chapter ~~ss.~~
23 ~~471.001-471.037~~ or of any other law, no registered engineer
24 whose principal practice is civil or structural engineering,
25 or employee or subordinate under the responsible supervision
26 or control of the engineer, is precluded from performing
27 architectural services which are purely incidental to her or
28 his engineering practice, nor is any registered architect, or
29 employee or subordinate under the responsible supervision or
30 control of the architect, precluded from performing
31 engineering services which are purely incidental to her or his

1 architectural practice. However, no engineer shall practice
2 architecture or use the designation "architect" or any term
3 derived therefrom, and no architect shall practice engineering
4 or use the designation "engineer" or any term derived
5 therefrom.

6 Section 30. Section 471.0035, Florida Statutes, is
7 amended to read:

8 471.0035 Instructors in postsecondary educational
9 institutions; exemption from registration requirement.--For
10 the sole purpose of teaching the principles and methods of
11 engineering design, notwithstanding the provisions of s.
12 471.005(6), a person employed by a public postsecondary
13 educational institution, or by an independent postsecondary
14 educational institution licensed or exempt from licensure
15 pursuant to the provisions of chapter 246, is not required to
16 register under the provisions of this chapter ~~ss.~~
17 ~~471.001-471.037~~ as a registered engineer.

18 Section 31. Section 471.005, Florida Statutes, is
19 amended to read:

20 471.005 Definitions.--As used in this chapter ~~ss.~~
21 ~~471.001-471.037~~, the term:

22 (1) "Board" means the Board of Professional Engineers.

23 (2) "Certificate of authorization" means a license to
24 practice engineering issued by the department to a corporation
25 or partnership.

26 (3) "Department" means the Department of Business and
27 Professional Regulation.

28 (4) "Engineer" includes the terms "professional
29 engineer" and "registered engineer" and means a person who is
30 registered to engage in the practice of engineering under this
31 chapter ~~ss. 471.001-471.037~~.

1 (5) "Engineer intern" means a person who has graduated
2 from, or is in the final year of, an engineering curriculum
3 approved by the board and has passed the fundamentals of
4 engineering examination as provided by rules adopted by the
5 board.

6 (6) "Engineering" includes the term "professional
7 engineering" and means any service or creative work, the
8 adequate performance of which requires engineering education,
9 training, and experience in the application of special
10 knowledge of the mathematical, physical, and engineering
11 sciences to such services or creative work as consultation,
12 investigation, evaluation, planning, and design of engineering
13 works and systems, planning the use of land and water,
14 teaching of the principles and methods of engineering design,
15 engineering surveys, and the inspection of construction for
16 the purpose of determining in general if the work is
17 proceeding in compliance with drawings and specifications, any
18 of which embraces such services or work, either public or
19 private, in connection with any utilities, structures,
20 buildings, machines, equipment, processes, work systems,
21 projects, and industrial or consumer products or equipment of
22 a mechanical, electrical, hydraulic, pneumatic, or thermal
23 nature, insofar as they involve safeguarding life, health, or
24 property; and includes such other professional services as may
25 be necessary to the planning, progress, and completion of any
26 engineering services. A person who practices any branch of
27 engineering; who, by verbal claim, sign, advertisement,
28 letterhead, or card, or in any other way, represents himself
29 or herself to be an engineer or, through the use of some other
30 title, implies that he or she is an engineer or that he or she
31 is registered under this chapter ~~ss. 471.001-471.037~~; or who

1 holds himself or herself out as able to perform, or does
2 perform, any engineering service or work or any other service
3 designated by the practitioner which is recognized as
4 engineering shall be construed to practice or offer to
5 practice engineering within the meaning and intent of this
6 chapter ss. 471.001-471.037.

7 (7) "License" means the registration of engineers or
8 certification of businesses to practice engineering in this
9 state.

10 (8) "Retired professional engineer" or "professional
11 engineer, retired" means a person who has been duly licensed
12 as a professional engineer by the board and who chooses to
13 relinquish or not to renew his or her license and applies to
14 and is approved by the board to be granted the title
15 "Professional Engineer, Retired."

16 Section 32. Subsection (1) of section 471.011, Florida
17 Statutes, is amended to read:

18 471.011 Fees.--

19 (1) The board by rule may establish fees to be paid
20 for applications, examination, reexamination, licensing and
21 renewal, inactive status application and reactivation of
22 inactive licenses, and recordmaking and recordkeeping. The
23 board may also establish by rule a delinquency fee. The board
24 shall establish fees that are adequate to ensure the continued
25 operation of the board. Fees shall be based on department
26 estimates of the revenue required to implement this chapter
27 ~~ss. 471.001-471.037~~ and the provisions of law with respect to
28 the regulation of engineers.

29 Section 33. Subsection (4) and paragraph (a) of
30 subsection (5) of section 471.015, Florida Statutes, are
31 amended to read:

1 471.015 Licensure.--

2 (4) The department shall not issue a license by
3 endorsement to any applicant who is under investigation in
4 another state for any act that would constitute a violation of
5 this chapter ~~ss. 471.001-471.037~~ or of part I of chapter 455
6 until such time as the investigation is complete and
7 disciplinary proceedings have been terminated.

8 (5)(a) The board shall deem that an applicant who
9 seeks licensure by endorsement has passed an examination
10 substantially equivalent to part I of the engineering
11 examination when such applicant:

12 1. Has held a valid professional engineer's
13 registration in another state for 15 years and has had 20
14 years of continuous professional-level engineering experience;

15 2. Has received a doctorate degree in engineering from
16 an institution that has an undergraduate ~~a nationally~~
17 ~~accredited~~ engineering degree program which is accredited by
18 the Accreditation Board for Engineering Technology; or

19 3. Has received a doctorate degree in engineering and
20 has taught engineering full time for at least 3 years, at the
21 baccalaureate level or higher, after receiving that degree.

22 Section 34. Subsections (2) and (3) of section
23 471.017, Florida Statutes, are amended to read:

24 471.017 Renewal of license.--

25 (2) The board ~~department~~ shall adopt rules
26 establishing a procedure for the biennial renewal of licenses.

27 (3) The board shall require a demonstration of
28 continuing professional competency of engineers as a condition
29 of license renewal or relicensure. Every licensee must
30 complete 15 professional development hours, or the equivalent
31 thereof, for each year of the license renewal period. The

1 board shall adopt rules that are consistent with the
2 guidelines of the National Council of Examiners for
3 Engineering and Surveying for multijurisdictional licensees
4 for the purpose of avoiding proprietary continuing
5 professional competency requirements. The board may, by rule,
6 exempt from continuing professional competency requirements
7 retired professional engineers who no longer sign and seal
8 engineering documents and licensees in unique circumstances
9 that severely limit opportunities to obtain the required
10 professional development hours.~~Commencing with licensure~~
11 ~~renewal in 2002, each licensee actively participating in the~~
12 ~~design of engineering works or systems in connection with~~
13 ~~buildings, structures, and facilities covered by the Florida~~
14 ~~Building Code shall submit proof to the board that the~~
15 ~~licensee participates in continuing education courses relating~~
16 ~~to the core curriculum courses or the building code training~~
17 ~~program or evidence of passing an equivalency test on the core~~
18 ~~curriculum courses or specialized or advanced courses on any~~
19 ~~portion of the Florida Building Code applicable to the area of~~
20 ~~practice.~~

21 Section 35. Section 471.019, Florida Statutes, is
22 amended to read:

23 471.019 Reactivation; ~~design of engineering works or~~
24 ~~systems; continuing education.--~~

25 (1) The board shall prescribe by rule continuing
26 education requirements for reactivating a license. The
27 continuing education requirements for reactivating a license
28 for a registered engineer may not exceed 12 classroom hours
29 for each year the license was inactive.

30 (2) ~~All licensees actively participating in the design~~
31 ~~of engineering works or systems in connection with buildings,~~

1 ~~structures, or facilities and systems covered by the Florida~~
2 ~~Building Code shall take continuing education courses and~~
3 ~~submit proof to the board, at such times and in such manner as~~
4 ~~established by the board by rule, that the licensee has~~
5 ~~completed the core curriculum courses and any specialized or~~
6 ~~advanced courses on any portion of the Florida Building Code~~
7 ~~applicable to the licensee's area of practice or has passed~~
8 ~~the appropriate equivalency test of the Building Code Training~~
9 ~~Program established by s. 553.841. The board shall record~~
10 ~~reported continuing education courses on a system easily~~
11 ~~accessed by code enforcement jurisdictions for evaluation when~~
12 ~~determining license status for purposes of processing design~~
13 ~~documents. Local jurisdictions shall be responsible for~~
14 ~~notifying the board when design documents are submitted for~~
15 ~~building construction permits by persons who are not in~~
16 ~~compliance with this section. The board shall take appropriate~~
17 ~~action as provided by its rules when such noncompliance is~~
18 ~~determined to exist.~~

19 Section 36. Section 471.0195, Florida Statutes, is
20 created to read:

21 471.0195 Florida Building Code training for
22 engineers.--Effective January 1, 2000, all licensees actively
23 participating in the design of engineering works or systems in
24 connection with buildings, structures, or facilities and
25 systems covered by the Florida Building Code shall take
26 continuing education courses and submit proof to the board, at
27 such times and in such manner as established by the board by
28 rule, that the licensee has completed the core curriculum
29 courses and any specialized or advanced courses on any portion
30 of the Florida Building Code applicable to the licensee's area
31 of practice or has passed the appropriate equivalency test of

1 the Building Code Training Program established by s. 553.841.
2 The board shall record reported continuing education courses
3 on a system easily accessed by code enforcement jurisdictions
4 for evaluation when determining license status for purposes of
5 processing design documents. Local jurisdictions shall be
6 responsible for notifying the board when design documents are
7 submitted for building construction permits by persons who are
8 not in compliance with this section. The board shall take
9 appropriate action as provided by its rules when such
10 noncompliance is determined to exist.

11 Section 37. Subsection (1) of section 471.023, Florida
12 Statutes, is amended to read:

13 471.023 Certification of partnerships and
14 corporations.--

15 (1) The practice of, or the offer to practice,
16 engineering by registrants through a corporation or
17 partnership offering engineering services to the public or by
18 a corporation or partnership offering said services to the
19 public through registrants under this chapter ss.
20 ~~471.001-471.037~~ as agents, employees, officers, or partners is
21 permitted only if the firm possesses a certification issued by
22 the department pursuant to qualification by the board, subject
23 to the provisions of this chapter ss. ~~471.001-471.037~~. One or
24 more of the principal officers of the corporation or one or
25 more partners of the partnership and all personnel of the
26 corporation or partnership who act in its behalf as engineers
27 in this state shall be registered as provided by this chapter
28 ~~ss. 471.001-471.037~~. All final drawings, specifications,
29 plans, reports, or documents involving practices registered
30 under this chapter ss. ~~471.001-471.037~~ which are prepared or
31 approved for the use of the corporation or partnership or for

1 public record within the state shall be dated and shall bear
2 the signature and seal of the registrant who prepared or
3 approved them. Nothing in this section shall be construed to
4 mean that a certificate of registration to practice
5 engineering shall be held by a corporation. Nothing herein
6 prohibits corporations and partnerships from joining together
7 to offer engineering services to the public, provided each
8 corporation or partnership otherwise meets the requirements of
9 this section. No corporation or partnership shall be relieved
10 of responsibility for the conduct or acts of its agents,
11 employees, or officers by reason of its compliance with this
12 section, nor shall any individual practicing engineering be
13 relieved of responsibility for professional services performed
14 by reason of his or her employment or relationship with a
15 corporation or partnership.

16 Section 38. Subsection (1) of section 471.025, Florida
17 Statutes, is amended to read:

18 471.025 Seals.--

19 (1) The board shall prescribe, by rule, a form of seal
20 to be used by registrants holding valid certificates of
21 registration. Each registrant shall obtain an impression-type
22 metal seal in the form aforesaid and may, in addition,
23 register his or her seal electronically in accordance with ss.
24 282.70-282.75. All final drawings, specifications, plans,
25 reports, or documents prepared or issued by the registrant and
26 being filed for public record and all final bid documents
27 provided to the owner or the owner's representative shall be
28 signed by the registrant, dated, and stamped with said seal.
29 Such signature, date, and seal shall be evidence of the
30 authenticity of that to which they are affixed. Drawings,
31 specifications, plans, reports, final bid documents, or

1 documents prepared or issued by a registrant may be
2 transmitted electronically and may be signed by the
3 registrant, dated, and stamped electronically with said seal
4 in accordance with ss. 282.70-282.75.

5 Section 39. Section 471.031, Florida Statutes, is
6 amended to read:

7 471.031 Prohibitions; penalties.--

8 (1) A person may not knowingly:

9 (a) Practice engineering unless the person is
10 registered under this chapter ~~ss. 471.001-471.037~~;

11 (b) Use the name or title "registered engineer" or any
12 other title, designation, words, letters, abbreviations, or
13 device tending to indicate that such person holds an active
14 registration as an engineer when the person is not registered
15 under this chapter ~~ss. 471.001-471.037~~;

16 (c) Present as his or her own the registration of
17 another;

18 (d) Give false or forged evidence to the board or a
19 member thereof;

20 (e) Use or attempt to use a registration that has been
21 suspended, revoked, or placed on inactive or delinquent
22 status;

23 (f) Employ unlicensed persons to practice engineering;
24 or

25 (g) Conceal information relative to violations of this
26 chapter ~~ss. 471.001-471.037~~.

27 (2) Any person who violates any provision of this
28 section commits ~~is guilty of~~ a misdemeanor of the first
29 degree, punishable as provided in s. 775.082 or s. 775.083.

30 Section 40. Section 471.037, Florida Statutes, is
31 amended to read:

1 471.037 Effect of chapter ss. 471.001-471.037

2 locally.--

3 (1) Nothing contained in this chapter ss.
4 ~~471.001-471.037~~ shall be construed to repeal, amend, limit, or
5 otherwise affect any local building code or zoning law or
6 ordinance, now or hereafter enacted, which is more restrictive
7 with respect to the services of registered engineers than the
8 provisions of this chapter ss. 471.001-471.037.

9 (2) In counties or municipalities that issue building
10 permits, such permits may not be issued in any case in which
11 it is apparent from the application for the building permit
12 that the provisions of this chapter ss. 471.001-471.037 have
13 been violated. However, this subsection does not authorize the
14 withholding of building permits in cases involving the
15 exceptions and exemptions set out in s. 471.003.

16 Section 41. Subsection (11) of section 474.202,
17 Florida Statutes, is amended to read:

18 474.202 Definitions.--As used in this chapter:

19 (11) "Veterinarian" means a health care practitioner
20 ~~person~~ who is licensed to engage in the practice of veterinary
21 medicine in Florida under the authority of this chapter.

22 Section 42. Section 474.203, Florida Statutes, is
23 amended to read:

24 474.203 Exemptions.--This chapter shall not apply to:

25 (1) Any faculty member practicing only in conjunction
26 with teaching duties at a school or college of veterinary
27 medicine. ~~Such school or college shall be~~ located in this
28 state and ~~be~~ accredited by the American Veterinary Medical
29 Association Council on Education. However, this exemption
30 shall only apply to such a faculty member who does not hold a
31 valid license issued under this chapter, but who is a graduate

1 of a school or college of veterinary medicine accredited by
2 the American Veterinary Medical Association Council on
3 Education or a school or college recognized by the American
4 Veterinary Medical Association Commission for Foreign
5 Veterinary Graduates.The faculty member exemption shall
6 automatically expire when such school or college terminates
7 the faculty member from such teaching duties. On December 31
8 of each year, such school or college shall provide the board
9 with a written list of all faculty who are exempt from this
10 chapter. Such school or college shall also notify the board in
11 writing of any additions or deletions to such list.

12 (2) A person practicing as an intern or resident
13 veterinarian who does not hold a valid license issued under
14 this chapter and who is a graduate in training at a school or
15 college of veterinary medicine located in this state and
16 accredited by the American Veterinary Medical Association
17 Council on Education or a school or college recognized by the
18 American Veterinary Medical Association Commission for Foreign
19 Veterinary Graduates. Such intern or resident must be a
20 graduate of a school or college of veterinary medicine
21 accredited by the American Veterinary Medical Association
22 Council on Education. This exemption expires when such intern
23 or resident completes or is terminated from such training.
24 Each school or college at which such intern or resident is in
25 training shall, on July 1 of each year, provide the board with
26 a written list of all such interns or residents designated for
27 this exemption, and the school or college shall also notify
28 the board of any additions or deletions to the list.

29 (3)~~(2)~~ A student in a school or college of veterinary
30 medicine while in the performance of duties assigned by her or
31 his instructor or when working as a preceptor under the

1 immediate supervision of a licensee, provided that such
2 preceptorship is required for graduation from an accredited
3 school or college of veterinary medicine. The licensed
4 veterinarian shall be responsible for all acts performed by a
5 preceptor under her or his supervision.

6 (4)~~(3)~~ Any doctor of veterinary medicine in the employ
7 of a state agency or the United States Government while
8 actually engaged in the performance of her or his official
9 duties; however, this exemption shall not apply to such person
10 when the person is not engaged in carrying out her or his
11 official duties or is not working at the installations for
12 which her or his services were engaged.

13 (5)~~(4)~~ Any person, or the person's regular employee,
14 administering to the ills or injuries of her or his own
15 animals, including, but not limited to, castration, spaying,
16 and dehorning of herd animals, unless title has been
17 transferred or employment provided for the purpose of
18 circumventing this law. This exemption shall not apply to
19 out-of-state veterinarians practicing temporarily in the
20 state. However, only a veterinarian may immunize or treat an
21 animal for diseases which are communicable to humans and which
22 are of public health significance.

23 (6)~~(5)~~ State agencies, accredited schools,
24 institutions, foundations, business corporations or
25 associations, physicians licensed to practice medicine and
26 surgery in all its branches, graduate doctors of veterinary
27 medicine, or persons under the direct supervision thereof,
28 which or who conduct experiments and scientific research on
29 animals in the development of pharmaceuticals, biologicals,
30 serums, or methods of treatment, or techniques for the
31 diagnosis or treatment of human ailments, or when engaged in

1 the study and development of methods and techniques directly
2 or indirectly applicable to the problems of the practice of
3 veterinary medicine.

4 (7)~~(6)~~ Any veterinary aide, nurse, laboratory
5 technician, preceptor, or other employee of a licensed
6 veterinarian who administers medication or who renders
7 auxiliary or supporting assistance under the responsible
8 supervision of a such licensed veterinarian practitioner,
9 including those tasks identified by rule of the board
10 requiring immediate supervision. However, the licensed
11 veterinarian shall be responsible for all such acts performed
12 under this subsection by persons under her or his supervision.

13 (8) A veterinarian, licensed by and actively
14 practicing veterinary medicine in another state, who is board
15 certified in a specialty recognized by the board and who
16 responds to a request of a veterinarian licensed in this state
17 to assist with the treatment on a specific case of a specific
18 animal or with the treatment on a specific case of the animals
19 of a single owner, as long as the veterinarian licensed in
20 this state requests the other veterinarian's presence. A
21 veterinarian who practices under this subsection is not
22 eligible to apply for a premises permit under s. 474.215.

23
24 For the purposes of chapters 465 and 893, persons exempt
25 pursuant to subsection (1), subsection (2), or subsection (4)
26 are deemed to be duly licensed practitioners authorized by the
27 laws of this state to prescribe drugs or medicinal supplies.

28 Section 43. Subsection (3) of section 474.211, Florida
29 Statutes, is amended to read:

30 474.211 Renewal of license.--

31

1 (3) The board may by rule prescribe continuing
2 education, not to exceed 30 hours biennially, as a condition
3 for renewal of a license or certificate. The criteria for such
4 programs, providers, and ~~or~~ courses shall be approved by the
5 board.

6 Section 44. Paragraph (c) of subsection (2) of section
7 474.214, Florida Statutes, is amended to read:

8 474.214 Disciplinary proceedings.--

9 (2) When the board finds any applicant or veterinarian
10 guilty of any of the grounds set forth in subsection (1),
11 regardless of whether the violation occurred prior to
12 licensure, it may enter an order imposing one or more of the
13 following penalties:

14 (c) Imposition of an administrative fine not to exceed
15 \$5,000~~\$1,000~~ for each count or separate offense.

16
17 In determining appropriate action, the board must first
18 consider those sanctions necessary to protect the public.
19 Only after those sanctions have been imposed may the
20 disciplining authority consider and include in its order
21 requirements designed to rehabilitate the veterinarian. All
22 costs associated with compliance with any order issued under
23 this subsection are the obligation of the veterinarian.

24 Section 45. For the purpose of incorporating the
25 amendment to section 474.214, Florida Statutes, in references
26 thereto, subsection (2) of section 474.207, Florida Statutes,
27 is reenacted to read:

28 474.207 Licensure by examination.--

29 (2) The department shall license each applicant who
30 the board certifies has:

31

1 (a) Completed the application form and remitted an
2 examination fee set by the board.

3 (b)1. Graduated from a college of veterinary medicine
4 accredited by the American Veterinary Medical Association
5 Council on Education; or

6 2. Graduated from a college of veterinary medicine
7 listed in the American Veterinary Medical Association Roster
8 of Veterinary Colleges of the World and obtained a certificate
9 from the Education Commission for Foreign Veterinary
10 Graduates.

11 (c) Successfully completed the examination provided by
12 the department for this purpose, or an examination determined
13 by the board to be equivalent.

14 (d) Demonstrated knowledge of the laws and rules
15 governing the practice of veterinary medicine in Florida in a
16 manner designated by rules of the board.

17
18 The department shall not issue a license to any applicant who
19 is under investigation in any state or territory of the United
20 States or in the District of Columbia for an act which would
21 constitute a violation of this chapter until the investigation
22 is complete and disciplinary proceedings have been terminated,
23 at which time the provisions of s. 474.214 shall apply.

24 Section 46. For the purpose of incorporating the
25 amendment to section 474.214, Florida Statutes, in references
26 thereto, subsection (2) of section 474.217, Florida Statutes,
27 is reenacted to read:

28 474.217 Licensure by endorsement.--

29 (2) The department shall not issue a license by
30 endorsement to any applicant who is under investigation in any
31 state, territory, or the District of Columbia for an act which

1 would constitute a violation of this chapter until the
2 investigation is complete and disciplinary proceedings have
3 been terminated, at which time the provisions of s. 474.214
4 shall apply.

5 Section 47. Subsection (7) of section 474.215, Florida
6 Statutes, is amended, and subsections (8) and (9) are added to
7 that section, to read:

8 474.215 Premises permits.--

9 (7) The board by rule shall establish minimum
10 standards for the operation of limited service veterinary
11 medical practices. Such rules shall not restrict limited
12 service veterinary medical practices and shall be consistent
13 with the type of limited veterinary medical service provided.

14 (a) Any person that offers or provides limited service
15 veterinary medical practice shall obtain a biennial permit
16 from the board the cost of which shall not exceed \$250. The
17 limited service permittee shall register each location where a
18 limited service clinic is held and shall pay a fee set by rule
19 not to exceed \$25 to register each such location.

20 (b) All permits issued under this subsection are
21 subject to the provisions of ss. 474.213 and 474.214.

22 (c) Notwithstanding any provision of this subsection
23 to the contrary, any temporary rabies vaccination effort
24 operated by a county health department in response to a public
25 health threat, as declared by the State Health Officer in
26 consultation with the State Veterinarian, is not subject to
27 any preregistration, time limitation, or fee requirements, but
28 must adhere to all other requirements for limited service
29 veterinary medical practice as prescribed by rule. The fee
30 charged to the public for a rabies vaccination administered
31 during such temporary rabies vaccination effort may not exceed

1 the actual cost of administering the rabies vaccine. Such
2 rabies vaccination efforts may not be used for any purpose
3 other than to address the public health consequences of the
4 rabies outbreak. The board shall be immediately notified in
5 writing of any temporary rabies vaccination effort operated
6 under this paragraph.

7 (8) Any person who is not a veterinarian licensed
8 under this chapter but who desires to own and operate a
9 veterinary medical establishment or limited service clinic
10 shall apply to the board for a premises permit. If the board
11 certifies that the applicant complies with the applicable laws
12 and rules of the board, the department shall issue a premises
13 permit. No permit shall be issued unless a licensed
14 veterinarian is designated to undertake the professional
15 supervision of the veterinary medical practice and the minimum
16 standards set by rule of the board for premises where
17 veterinary medicine is practiced. Upon application, the
18 department shall submit the permittee's name for a statewide
19 criminal records correspondence check through the Department
20 of Law Enforcement. The permittee shall notify the board
21 within 10 days after any designation of a new licensed
22 veterinarian responsible for such duties. A permittee under
23 this subsection is subject to the provisions of subsection (9)
24 and s. 474.214.

25 (9)(a) The department or the board may deny, revoke,
26 or suspend the permit of any permittee under this section and
27 may fine, place on probation, or otherwise discipline any such
28 permittee who has:

29 1. Obtained a permit by misrepresentation or fraud or
30 through an error of the department or board;

31

1 2. Attempted to procure, or has procured, a permit for
2 any other person by making, or causing to be made, any false
3 representation;

4 3. Violated any of the requirements of this chapter or
5 any rule of the board; or

6 4. Been convicted or found guilty of, or entered a
7 plea of nolo contendere to, regardless of adjudication, a
8 felony in any court of this state, of any other state, or of
9 the United States.

10 (b) If the permit is revoked or suspended, the owner,
11 manager, or proprietor shall cease to operate the premises as
12 a veterinary medical practice as of the effective date of the
13 suspension or revocation. In the event of such revocation or
14 suspension, the owner, manager, or proprietor shall remove
15 from the premises all signs and symbols identifying the
16 premises as a veterinary medical practice. The period of any
17 such suspension shall be prescribed by rule of the board, but
18 may not exceed 1 year. If the permit is revoked, the person
19 owning or operating the establishment may not apply for a
20 permit to operate a premises for a period of 1 year after the
21 effective date of such revocation. Upon the effective date of
22 such revocation, the permittee must advise the board of the
23 disposition of all medicinal drugs and must provide for
24 ensuring the security, confidentiality, and availability to
25 clients of all patient medical records.

26 Section 48. Section 474.2165, Florida Statutes, is
27 amended to read:

28 474.2165 Ownership and control of veterinary medical
29 patient records; report or copies of records to be
30 furnished.--

31

1 (1) As used in this section, the term "records owner"
2 means any veterinarian who generates a medical record after
3 making a physical examination of, or administering treatment
4 or dispensing legend drugs to, any patient; any veterinarian
5 to whom records are transferred by a previous records owner;
6 or any veterinarian's employer, provided the employment
7 contract or agreement between the employer and the
8 veterinarian designates the employer as the records owner.

9 (2) Each person who provides veterinary medical
10 services shall maintain medical records, as established by
11 rule.

12 (3) Any records owner licensed under this chapter who
13 makes an examination of, or administers treatment or dispenses
14 legend drugs to, any patient shall, upon request of the client
15 or the client's legal representative, furnish, in a timely
16 manner, without delays for legal review, copies of all reports
17 and records relating to such examination or treatment,
18 including X rays. The furnishing of such report or copies
19 shall not be conditioned upon payment of a fee for services
20 rendered.

21 (4) Except as otherwise provided in this section, such
22 records may not be furnished to, and the medical condition of
23 a patient may not be discussed with, any person other than the
24 client or the client's legal representative or other
25 veterinarians involved in the care or treatment of the
26 patient, except upon written authorization of the client.
27 However, such records may be furnished without written
28 authorization under the following circumstances:

29 (a) To any person, firm, or corporation that has
30 procured or furnished such examination or treatment with the
31 client's consent.

1 (b) In any civil or criminal action, unless otherwise
2 prohibited by law, upon the issuance of a subpoena from a
3 court of competent jurisdiction and proper notice to the
4 client or the client's legal representative by the party
5 seeking such records.

6 (c) For statistical and scientific research, provided
7 the information is abstracted in such a way as to protect the
8 identity of the patient and the client, or provided written
9 permission is received from the client or the client's legal
10 representative.

11 (5) Except in a medical negligence action or
12 administrative proceeding when a veterinarian is or reasonably
13 expects to be named as a defendant, information disclosed to a
14 veterinarian by a client in the course of the care and
15 treatment of the patient is confidential and may be disclosed
16 only to other veterinarians involved in the care or treatment
17 of the patient, or if permitted by written authorization from
18 the client or compelled by subpoena at a deposition,
19 evidentiary hearing, or trial for which proper notice has been
20 given.

21 (6) The department may obtain patient records pursuant
22 to a subpoena without written authorization from the client if
23 the department and the probable cause panel of the board find
24 reasonable cause to believe that a veterinarian has
25 excessively or inappropriately prescribed any controlled
26 substance specified in chapter 893 in violation of this
27 chapter or that a veterinarian has practiced his or her
28 profession below that level of care, skill, and treatment
29 required as defined by this chapter.

30 (7) Notwithstanding the provisions of s. 455.242,
31 records owners shall place an advertisement in the local

1 newspaper or notify clients, in writing, when they are
2 terminating practice, retiring, or relocating and are no
3 longer available to patients and shall offer clients the
4 opportunity to obtain a copy of their medical records.

5 (8) Notwithstanding the provisions of s. 455.242,
6 records owners shall notify the board office when they are
7 terminating practice, retiring, or relocating and are no
8 longer available to patients, specifying who the new records
9 owner is and where the medical records can be found.

10 (9) Whenever a records owner has turned records over
11 to a new records owner, the new records owner shall be
12 responsible for providing a copy of the complete medical
13 record, upon written request, of the client or the client's
14 legal representative.

15 (10) Veterinarians in violation of the provisions of
16 this section shall be disciplined by the board.

17 (11) A records owner furnishing copies of reports or
18 records pursuant to this section shall charge no more than the
19 actual cost of copying, including reasonable staff time, or
20 the amount specified in administrative rule by the board.

21 (12) Nothing in this section shall be construed to
22 limit veterinarian consultations, as necessary.

23 Section 49. Notwithstanding the transfer of the
24 Division of Medical Quality Assurance to the Department of
25 Health or any other provision of law to the contrary,
26 veterinarians licensed under chapter 474, Florida Statutes,
27 shall be governed by the treatment of impaired practitioner
28 provisions of section 455.707, Florida Statutes, as if they
29 were under the jurisdiction of the Division of Medical Quality
30 Assurance, except that for veterinarians the Department of
31 Business and Professional Regulation shall, at its option,

1 exercise any of the powers granted to the Department of Health
2 by that section, and "board" shall mean board as defined in
3 chapter 474, Florida Statutes.

4 Section 50. Section 475.045, Florida Statutes, is
5 amended to read:

6 475.045 Florida Real Estate Commission Education and
7 Research Foundation; ~~Foundation Advisory Committee.~~--

8 (1)(a) There is established a Florida Real Estate
9 Commission Education and Research Foundation, hereinafter
10 referred to as the "foundation," which shall be administered
11 by the commission ~~Foundation Advisory Committee.~~

12 (b) The purposes, objectives, and duties of the
13 foundation are as follows:

14 1. To create and promote educational projects to
15 expand the knowledge of the public and real estate licensees
16 in matters pertaining to Florida real estate.

17 2. To augment the existing real estate programs by
18 increasing the number of teaching personnel and real estate
19 courses in the state in degree-granting programs in
20 universities and colleges in this state.

21 3. To conduct studies in all areas that relate
22 directly or indirectly to real estate or urban or rural
23 economics and to publish and disseminate the findings and
24 results of the studies.

25 4. To assist the teaching program in real estate
26 offered by the universities, colleges, and real estate schools
27 registered pursuant to this chapter in the state, when
28 requested to do so.

29 5. To develop and from time to time revise and update
30 materials for use in the courses in real estate offered by the
31 universities, colleges, and real estate schools registered

1 pursuant to this chapter in the state, when requested to do
2 so.

3 6. To make studies of, and recommend changes in, state
4 statutes and municipal ordinances; provided, however, that
5 such studies are requested by the Governor or the presiding
6 officers of the Legislature. The foundation shall maintain
7 political nonadvocacy.

8 7. To periodically review the progress of persons
9 conducting such research and studies. The results of any
10 research project or study shall not be published or
11 disseminated until it has been reviewed and approved in
12 writing by the commission ~~advisory committee~~ or its designated
13 representative.

14 8. To prepare information of consumer interest
15 concerning Florida real estate and to make the information
16 available to the public and appropriate state agencies.

17 (c) The foundation may make a charge for its
18 publications and may receive gifts and grants from
19 foundations, individuals, and other sources for the benefit of
20 the foundation.

21 (d) A report of the activities and accomplishments of
22 the foundation shall be published annually.

23 (e) On or before January 1 of each year, the
24 commission ~~advisory committee~~ shall file with the Governor,
25 the presiding officer of each house of the Legislature, and
26 the secretary of the department a complete and detailed
27 written report accounting for all funds received and disbursed
28 by the foundation during the preceding year.

29 ~~(2)(a) There is created the Foundation Advisory~~
30 ~~Committee which is composed of nine persons appointed by the~~
31 ~~Governor without regard to race, creed, sex, religion, or~~

1 ~~national origin of the appointee, with the following~~
2 ~~representation:~~

3 ~~1. Six active real estate licensees, one of whom may~~
4 ~~be a real estate salesperson. All licensees shall have been~~
5 ~~active real estate licensees for at least the past 5 years.~~

6 ~~2. Three members shall be representatives of the~~
7 ~~general public, and those appointed after October 1, 1988,~~
8 ~~shall possess qualifications in the fields of education,~~
9 ~~research, or consumer affairs which relate to the committee's~~
10 ~~education and research activities. Members representative of~~
11 ~~the general public shall not be licensed real estate brokers~~
12 ~~or salespersons and shall not have a financial interest, other~~
13 ~~than as consumers, in the practice of a licensed real estate~~
14 ~~broker or salesperson.~~

15 ~~(b)1. No current member of the Florida Real Estate~~
16 ~~Commission shall be eligible for appointment to the Foundation~~
17 ~~Advisory Committee.~~

18 ~~2. The chair of the Florida Real Estate Commission or~~
19 ~~a member of the commission designated by the chair shall serve~~
20 ~~as an ex officio nonvoting member of the advisory committee.~~

21 ~~(c)1. Except for the initial appointees, members of~~
22 ~~the advisory committee shall hold office for staggered terms~~
23 ~~of 4 years, with the terms of three members expiring on~~
24 ~~January 31 of each odd-numbered year. The current members may~~
25 ~~complete their present terms unless removed for cause.~~

26 ~~2. Any vacancy shall be filled by appointment for the~~
27 ~~unexpired portion of the term. Each member shall serve until~~
28 ~~the member's successor is qualified.~~

29 ~~3. Each member of the advisory committee is entitled~~
30 ~~to per diem and travel expenses as set by legislative~~

31

1 ~~appropriation for each day that the member engages in the~~
2 ~~business of the advisory committee.~~

3 ~~(3) It is grounds for removal from the advisory~~
4 ~~committee, if:~~

5 ~~(a) A broker or salesperson member of the committee~~
6 ~~ceases to be an active licensee; or~~

7 ~~(b) A public member of the committee acquires a real~~
8 ~~estate license or a financial interest in the practice of a~~
9 ~~licensed real estate broker or salesperson.~~

10 ~~(4)(a) The committee shall elect a chair annually from~~
11 ~~among its membership.~~

12 ~~(b) The committee shall meet not less than~~
13 ~~semiannually and, in addition, on call of its chair or on~~
14 ~~petition of any six of its members.~~

15 ~~(c) The advisory committee is subject to the sunshine~~
16 ~~law pursuant to s. 286.011.~~

17 (2)(5)(a) ~~The commission advisory committee~~ shall
18 solicit advice and information from real estate licensees, the
19 commission, universities, colleges, real estate schools
20 registered pursuant to this chapter and the general public for
21 the purpose of submitting proposals for carrying out the
22 purposes, objectives, and duties of the foundation.

23 (b) ~~The commission advisory committee~~ shall select the
24 proposals that shall be funded and shall give priority to
25 projects with the greatest potential for direct or indirect
26 benefit to the public.

27 (c) ~~The commission advisory committee~~ shall select the
28 university or college within the state or qualified full-time
29 faculty member of a university or college within the state
30 with the consent of the institution to perform the education
31 study, research study, or other project in accordance with the

1 purposes, objectives, and duties of the foundation. In those
2 instances where no university or college within the state, or
3 qualified full-time faculty member of a university or college
4 within the state with the consent of the institution, submits
5 an acceptable proposal, a qualified person or persons may be
6 selected in accordance with law to perform the education
7 study, research study, or other project in accordance with the
8 purposes, objectives, and duties of the foundation.

9 (3)~~(6)~~(a) The director of the Division of Real Estate
10 of the department, hereinafter referred to as the "director,"
11 or her or his designated representative shall submit to the
12 commission ~~advisory committee~~, in advance of each fiscal year,
13 a budget for expenditures of all funds provided for the
14 foundation in a form that is related to the proposed schedule
15 of activities for the review and approval of the commission
16 ~~advisory committee~~.

17 (b) The director shall submit to the commission
18 ~~advisory committee~~ all proposals received for its review and
19 approval in developing an educational and research agenda at
20 the beginning of each fiscal year and shall continuously
21 inform the commission ~~advisory committee~~ of changes in its
22 substance and scheduling.

23 (4)~~(7)~~ The commission ~~advisory committee~~ shall have
24 the power and authority to adopt all rules necessary to
25 administer this section.

26 (5)~~(8)~~ ~~Neither~~ The foundation may not ~~nor the~~
27 ~~committee shall be permitted to~~ fund or offer educational
28 courses designed to qualify persons for licensure or the
29 renewal of licenses pursuant to this chapter.

30
31

1 ~~(6)(9) Neither~~ The foundation may not ~~nor the~~
2 ~~committee shall~~ expend any funds for the purpose of employing
3 staff.

4 ~~(7)(10)~~ The Treasurer shall invest \$3 million from the
5 portion of the Professional Regulation Trust Fund credited to
6 the real estate profession, under the same limitations as
7 applied to investments of other state funds, and the income
8 earned thereon shall be available to the foundation to fund
9 the activities and projects authorized under this section.
10 However, any balance of such interest in excess of \$1 million
11 shall revert to the portion of the Professional Regulation
12 Trust Fund credited to the real estate profession. In the
13 event the foundation is abolished, the funds in the trust fund
14 shall revert to such portion of the Professional Regulation
15 Trust Fund.

16 Section 51. Paragraph (d) is added to subsection (1)
17 of section 477.0132, Florida Statutes, to read:

18 477.0132 Hair braiding, hair wrapping, and body
19 wrapping registration.--

20 (1)

21 (d) Only the board may review, evaluate, and approve a
22 course required of an applicant for registration under this
23 subsection in the occupation or practice of hair braiding,
24 hair wrapping, or body wrapping. A provider of such a course
25 is not required to hold a license under chapter 246.

26 Section 52. Subsection (2) of section 477.019, Florida
27 Statutes, is amended to read:

28 477.019 Cosmetologists; qualifications; licensure;
29 supervised practice; license renewal; endorsement; continuing
30 education.--

31

1 (2) An applicant shall be eligible for licensure by
2 examination to practice cosmetology if the applicant:

3 (a) Is at least 16 years of age or has received a high
4 school diploma;

5 (b) Pays the required application fee, which is not
6 refundable, and the required examination fee, which is
7 refundable if the applicant is determined to not be eligible
8 for licensure for any reason other than failure to
9 successfully complete the licensure examination; and

10 (c)1. Is authorized ~~Holds an active valid license~~ to
11 practice cosmetology in another state or country, has been so
12 authorized ~~held the license~~ for at least 1 year, and does not
13 qualify for licensure by endorsement as provided for in
14 subsection (6); or

15 2. Has received a minimum of 1,200 hours of training
16 as established by the board, which shall include, but shall
17 not be limited to, the equivalent of completion of services
18 directly related to the practice of cosmetology at one of the
19 following:

20 a. A school of cosmetology licensed pursuant to
21 chapter 246.

22 b. A cosmetology program within the public school
23 system.

24 c. The Cosmetology Division of the Florida School for
25 the Deaf and the Blind, provided the division meets the
26 standards of this chapter.

27 d. A government-operated cosmetology program in this
28 state.

29
30 The board shall establish by rule procedures whereby the
31 school or program may certify that a person is qualified to

1 take the required examination after the completion of a
2 minimum of 1,000 actual school hours. If the person then
3 passes the examination, he or she shall have satisfied this
4 requirement; but if the person fails the examination, he or
5 she shall not be qualified to take the examination again until
6 the completion of the full requirements provided by this
7 section.

8 Section 53. Section 492.101, Florida Statutes, is
9 amended to read:

10 492.101 Purpose.--It is hereby declared to be the
11 public policy of the state that, in order to safeguard the
12 life, health, property, and public well-being of its citizens,
13 any person practicing or offering to practice geology in this
14 state shall meet the requirements of this chapter ~~the~~
15 ~~Department of Business and Professional Regulation and shall~~
16 ~~be licensed as provided in ss. 492.101-492.1165.~~

17 Section 54. Section 492.102, Florida Statutes, is
18 amended to read:

19 492.102 Definitions.--For the purposes of this chapter
20 ~~ss. 492.101-492.1165~~, unless the context clearly requires
21 otherwise:

22 (1) "Board" means the Board of Professional
23 Geologists.

24 (2) "Department" means the Department of Business and
25 Professional Regulation.

26 (3) "Geology" means the science which includes the
27 treatment of the earth and its origin and history, in general;
28 the investigation of the earth's crust and interior and the
29 solids and fluids, including all surface and underground
30 waters, and gases which compose the earth; the study of the
31 natural agents, forces, and processes which cause changes in

1 the earth; and the utilization of this knowledge of the earth
2 and its solids, fluids, and gases, and their collective
3 properties and processes, for the benefit of humankind.

4 (4) "Geologist" means an individual who, by reason of
5 her or his knowledge of geology, soils, mathematics, and the
6 physical and life sciences, acquired by education and
7 practical experience, is capable of practicing the science of
8 geology.

9 (5) "Qualified geologist" means an individual who
10 possesses all the qualifications for licensure under the
11 provisions of this chapter ~~ss. 492.101-492.1165~~, except that
12 such person is not licensed.

13 (6) "Professional geologist" means an individual who
14 is licensed as a geologist under the provisions of this
15 chapter ~~ss. 492.101-492.1165~~.

16 (7) "Practice of professional geology" means the
17 performance of, or offer to perform, geological services,
18 including, but not limited to, consultation, investigation,
19 evaluation, planning, and geologic mapping, but not including
20 mapping as prescribed in chapter 472, relating to geological
21 work, except as specifically exempted by this chapter ~~ss.~~
22 ~~492.101-492.1165~~. Any person who practices any specialty
23 branch of the profession of geology, or who by verbal claim,
24 sign, advertisement, letterhead, card, or any other means
25 represents herself or himself to be a professional geologist,
26 or who through the use of some title implies that she or he is
27 a professional geologist or that she or he is licensed under
28 this chapter ~~ss. 492.101-492.1165~~, or who holds herself or
29 himself out as able to perform or does perform any geological
30 services or work recognized as professional geology, shall be
31

1 construed to be engaged in the practice of professional
2 geology.

3 Section 55. Section 492.104, Florida Statutes, is
4 amended to read:

5 492.104 Authority to make rules.--The Board of
6 Professional Geologists has authority to adopt rules pursuant
7 to ss. 120.536(1) and 120.54 to implement this chapter ~~ss.~~
8 ~~492.101-492.1165~~. Every licensee shall be governed and
9 controlled by this chapter ~~ss. 492.101-492.1165~~ and the rules
10 adopted by the board. The board is authorized to set, by
11 rule, fees for application, examination, certificate of
12 authorization, late renewal, initial licensure, and license
13 renewal. These fees should not exceed the cost of
14 implementing the application, examination, initial licensure,
15 and license renewal or other administrative process and shall
16 be established as follows:-

17 (1) The application fee shall not exceed \$150 and
18 shall be nonrefundable.

19 (2) The examination fee shall not exceed \$250 and
20 shall be refundable if the applicant is found to be ineligible
21 to take the licensure examination.

22 (3) The initial license fee shall not exceed \$100.

23 (4) The biennial renewal fee shall not exceed \$150.

24 (5) The fee for a certificate of authorization shall
25 not exceed \$350 and the fee for renewal of the certificate
26 shall not exceed \$350.

27 (6) The fee for reactivation of an inactive license
28 shall not exceed \$50.

29 (7) The fee for a provisional license shall not exceed
30 \$400.

31

1 (8) The fee for application, examination, and
2 licensure for a license by endorsement shall be as provided in
3 this section for licenses in general.

4 Section 56. Paragraph (c) of subsection (1) and
5 subsection (3) of section 492.105, Florida Statutes, are
6 amended to read:

7 492.105 Licensure by examination; requirements;
8 fees.--

9 (1) Any person desiring to be licensed as a
10 professional geologist shall apply to the department to take
11 the licensure examination. The written licensure examination
12 shall be designed to test an applicant's qualifications to
13 practice professional geology, and shall include such subjects
14 as will tend to ascertain the applicant's knowledge of the
15 theory and the practice of professional geology and may
16 include such subjects as are taught in curricula of accredited
17 colleges and universities. The department shall examine each
18 applicant who the board certifies:

19 (c) Has not committed any act or offense in any
20 jurisdiction which would constitute the basis for disciplining
21 a professional geologist licensed pursuant to this chapter ~~ss.~~
22 ~~492.101-492.1165~~.

23 (3) The department shall not issue a license to any
24 applicant who is under investigation in any jurisdiction for
25 an offense which would constitute a violation of this chapter
26 ~~ss. 492.101-492.1165~~. Upon completion of the investigation,
27 the disciplinary provisions of s. 492.113 shall apply.

28 Section 57. Section 492.107, Florida Statutes, is
29 amended to read:

30 492.107 Seals.--

31

1 (1) The board shall prescribe, by rule, a form of
2 seal, including its electronic form, to be used by persons
3 holding valid licenses. All geological papers, reports, and
4 documents prepared or issued by the licensee shall be signed
5 ~~by the licensee,~~ dated, and sealed by the licensee who
6 performed or is responsible for the supervision, direction, or
7 control of the work contained in the papers, reports, or
8 documents stamped with said seal. Such signature, date, and
9 seal shall be evidence of the authenticity of that to which
10 they are affixed. Geological papers, reports, and documents
11 prepared or issued by the licensee may be transmitted
12 electronically provided they have been signed by the licensee,
13 dated, and electronically sealed. It is unlawful for any
14 person to sign stamp or seal any document as a professional
15 geologist unless that person holds a current, active license
16 as a professional geologist which has not with a seal after
17 ~~that person's license has~~ expired or been revoked or
18 suspended, unless reinstated or reissued.

19 (2) No licensee registrant shall affix or permit to be
20 affixed her or his the registrant's seal or name to any
21 geologic reports, papers, or other documents which depict work
22 which the licensee registrant is not licensed to perform or
23 which was not performed by or under the responsible
24 supervision, direction, or control of the licensee is beyond
25 ~~the registrant's profession or specialty therein.~~

26 Section 58. Subsection (2) of section 492.108, Florida
27 Statutes, is amended to read:

28 492.108 Licensure by endorsement; requirements;
29 fees.--

30 (2) The department shall issue a license to practice
31 professional geology to any applicant who successfully

1 complies with the requirements of this section. The
2 department shall not issue a license to any applicant who is
3 under investigation in any jurisdiction for an offense which
4 would constitute a violation of this chapter ~~ss.~~
5 ~~492.101-492.1165~~. Upon completion of the investigation, the
6 disciplinary provisions of s. 492.113 shall apply.

7 Section 59. Section 492.111, Florida Statutes, is
8 amended to read:

9 492.111 Practice of professional geology by a firm,
10 corporation, or partnership; certificate of
11 authorization.--The practice of, or offer to practice,
12 professional geology by individual professional geologists
13 licensed under the provisions of this chapter ~~ss.~~
14 ~~492.101-492.1165~~ through a firm, corporation, or partnership
15 offering geological services to the public through
16 individually licensed professional geologists as agents,
17 employees, officers, or partners thereof is permitted subject
18 to the provisions of this chapter ~~ss. 492.101-492.1165~~,
19 provided that:

20 (1) At all times that it offers geological services to
21 the public, the firm, corporation, or partnership has on file
22 with the department the name and license number of one or more
23 individuals who hold a current, active license as a
24 professional geologist in the state and are serving as a
25 geologist of record for the firm, corporation, or partnership.
26 A geologist of record may be any principal officer or employee
27 of such firm or corporation, or any partner or employee of
28 such partnership, who holds a current, active license as a
29 professional geologist in this state, or any other
30 Florida-licensed professional geologist with whom the firm,
31 corporation, or partnership has entered into a long-term,

1 ongoing relationship, as defined by rule of the board, to
2 serve as one of its geologists of record. It shall be the
3 responsibility of the firm, corporation, or partnership and
4 the geologist of record to notify the department of any
5 changes in the relationship or identity of that geologist of
6 record within 30 days after such change.~~One or more of the~~
7 ~~principal officers, employees, or agents of such firm or~~
8 ~~corporation, or partners, employees, or agents of such~~
9 ~~partnership, who act in its behalf as professional geologists~~
10 ~~in this state are licensed as provided in ss.~~
11 ~~492.101-492.1165.~~

12 (2) The firm, corporation, or partnership has been
13 issued a certificate of authorization by the department as
14 provided in this chapter ~~ss. 492.101-492.1165~~. For purposes
15 of this section, a certificate of authorization shall be
16 required of any firm, corporation, partnership, association,
17 or person practicing under a fictitious name and offering
18 geological services to the public; except that, when an
19 individual is practicing geology in his or her own name, he or
20 she shall not be required to obtain a certificate of
21 authorization under this section. Such certificate of
22 authorization shall be renewed every 2 years.

23 (3) All final geological papers or documents involving
24 the practice of the profession of geology which have been
25 prepared or approved for the use of such firm, corporation, or
26 partnership, for delivery to any person for public record with
27 the state, shall be dated and bear the signature and seal of
28 the professional geologist or professional geologists who
29 prepared or approved them.

30 (4) The fact that a licensed geologist practices
31 through a corporation or partnership shall not relieve the

1 registrant from personal liability for negligence, misconduct,
2 or wrongful acts committed by him or her. Partnership and all
3 partners shall be jointly and severally liable for the
4 negligence, misconduct, or wrongful acts committed by their
5 agents, employees, or partners while acting in a professional
6 capacity. Any officer, agent, or employee of a corporation
7 shall be personally liable and accountable only for negligent
8 acts, wrongful acts, or misconduct committed by him or her or
9 committed by any person under his or her direct supervision
10 and control, while rendering professional services on behalf
11 of the corporation. The personal liability of a shareholder
12 of a corporation, in his or her capacity as shareholder, shall
13 be no greater than that of a shareholder-employee of a
14 corporation incorporated under chapter 607. The corporation
15 shall be liable up to the full value of its property for any
16 negligent acts, wrongful acts, or misconduct committed by any
17 of its officers, agents, or employees while they are engaged
18 on behalf of the corporation in the rendering of professional
19 services.

20 (5) The firm, corporation, or partnership desiring a
21 certificate of authorization shall file with the department an
22 application therefor, upon a form to be prescribed by the
23 department, accompanied by the required application fee.

24 (6) The department may refuse to issue a certificate
25 of authorization if any facts exist which would entitle the
26 department to suspend or revoke an existing certificate of
27 authorization or if the department, after giving persons
28 involved a full and fair hearing, determines that any of the
29 officers or directors of said firm or corporation, or partners
30 of said partnership, have violated the provisions of s.
31 492.113.

1 Section 60. Paragraphs (a), (b), and (g) of subsection
2 (1) of section 492.112, Florida Statutes, are amended to read:

3 492.112 Prohibitions; penalties.--

4 (1) A person may not knowingly:

5 (a) Practice geology unless the person is licensed
6 under this chapter ~~ss. 492.101-492.1165~~.

7 (b) Use the name or title "Professional Geologist" or
8 any other title, designation, words, letters, abbreviations,
9 or device tending to indicate that the person holds an active
10 license as a geologist when the person is not licensed under
11 this chapter ~~ss. 492.101-492.1165~~.

12 (g) Conceal information relative to violations of this
13 chapter ~~ss. 492.101-492.1165~~.

14 Section 61. Paragraph (a) of subsection (1) of section
15 492.113, Florida Statutes, is amended to read:

16 492.113 Disciplinary proceedings.--

17 (1) The following acts constitute grounds for which
18 the disciplinary actions in subsection (3) may be taken:

19 (a) Violation of any provision of s. 492.112 or any
20 other provision of this chapter ~~ss. 492.101-492.1165~~.

21 Section 62. Section 492.116, Florida Statutes, is
22 amended to read:

23 492.116 Exemptions.--The following persons are
24 specifically exempted from this chapter ~~ss. 492.101-492.1165~~,
25 provided, however, that all final geological papers or
26 documents which have been prepared by a person exempt under
27 subsection (1), subsection (2), subsection (3), or subsection
28 (4) for delivery to any person for public record with the
29 state shall be dated and bear the signature and seal of the
30 professional geologist or professional geologists who prepared
31 or approved them:

1 (1) Persons engaged solely in teaching the science of
2 geology.

3 (2) Persons engaged in geological research which does
4 not affect the health, safety, or well-being of the public.

5 (3) Officers and employees of the United States
6 Government, the State of Florida, water management districts,
7 or other local or regional governmental entities practicing
8 solely as such officers or employees.

9 (4) Regular full-time employees of a corporation not
10 engaged in the practice of professional geology as such, who
11 are directly supervised by a person licensed as a professional
12 geologist under this chapter ~~ss. 492.101-492.1165~~.

13 (5) A person employed on a full-time basis as a
14 geologist by an employer engaged in the business of
15 developing, mining, or treating ores, other minerals, and
16 petroleum resources if that person engages in geological
17 practice exclusively for and as an employee of such employer
18 and does not hold herself or himself out and is not held out
19 as available to perform any geological services for persons
20 other than her or his employer.

21 Section 63. Section 492.1165, Florida Statutes, is
22 amended to read:

23 492.1165 Construction of chapter ~~ch. 87-403~~.--Nothing
24 in this chapter ~~ss. 492.101-492.1165 as enacted by chapter~~
25 ~~87-403, Laws of Florida~~, shall be construed to prevent or
26 prohibit the practice of any profession or trade for which a
27 license is required under any other law of this state, or the
28 practice by registered professional engineers.

29 Section 64. The sum of \$500,000 is appropriated from
30 the Professional Regulation Trust Fund to the Department of
31 Business and Professional Regulation for the purpose of

1 disbursing funds to any private corporation or business entity
2 to offset startup costs incurred in the implementation of
3 section 455.32, Florida Statutes, the Management Privatization
4 Act, pursuant to a contract executed by the department.

5 Section 65. This act shall take effect July 1, 2000.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 1016

10 The Proposed Committee Substitute for Senate Bill 1016 adds
11 provisions relating to the Department of Business and
12 Professional Regulation's general regulatory powers and to
13 various other professions under the Department, including:
14 harbor pilots; community association managers; employee
15 leasing companies; funeral directors and embalmers;
16 professional engineers; veterinarians; cosmetologists; and
17 geologists.