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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 903
RELATING TO: Professions/Reinstatement of License
SPONSOR(S): Representative(s) Betancourt
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON BUSINESS REGULATION YEAS 12 NAYS 0
 - (2) SMARTER GOVERNMENT COUNCIL
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill authorizes the Department of Business and Professional Regulation and the boards within the DBPR, including specific authority for the Construction Industry Licensing Board, to reinstate and reactivate a nullified license. The bill requires the former licensee to attempt to comply with the statutory requirements for maintaining a license in inactive status but creates an exemption from the inactive status requirements if the failure to comply is a result of illness or unusual hardship. The applicant for relicensure is required to comply with continuing education requirements and pay licensure fees.

The bill does not have a significant fiscal impact on state or local government.

On February 12, 2002 the Committee on Business Regulation adopted three amendments that are traveling with the bill.

Amendment 1 relates to qualifications for licensure by examination for construction contractors.

Amendment 2 relates to unlicensed activity by electrical contractors.

Amendment 3 creates a regulatory program to be administered by the Department of Health for persons operating as portable restroom contractors.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 455, F.S., provides general powers for the regulation of the areas of jurisdiction under the Department of Business and Professional Regulation (DBPR). Section 455.271, F.S., allows a licensee to maintain a license in active or inactive status. A licensee is required to biennially renew an active license, as well as, an inactive license. Failure to renew before the expiration of the term of the license causes the licensee to be in delinquent status. If the licensee further fails to renew the status of the license as active or inactive before the expiration of the current licensure cycle, the license becomes null by operation of law. A person whose license has been nullified is required to meet all prerequisites for an initial license if subsequent licensure is desired. These provisions do not apply to real estate licensees or to harbor pilots pursuant to exemptions provided in this section.

Chapter 473, F.S., provides for the licensure and regulation of CPAs under the jurisdiction of the Board of Accountancy (Board) within the DBPR, Division of Certified Public Accountants. Section 473.313, F.S., authorizes a CPA to maintain a license in inactive status if statutory requirements are satisfied. These requirements include making application to the DBPR, paying fees, completing prescribed continuing education courses, and passing an examination on chapter 455, F.S., relating to the general powers of the DBPR, chapter 473, F.S., relating to the practice of public accountancy, and related administrative rules.

During the 2001 Legislative Session, s. 473.313, F.S., was amended to give the Board of Accountancy, the discretion, notwithstanding the provisions of s. 455.271, F.S., to reinstate a person whose license has become null and void if the person has made a good-faith effort to comply with licensure renewal provisions but has failed to comply because of illness or unusual hardship. The board is to establish by rule the procedure for applying for reinstatement and an application fee. See 2001-269, LOF.

Chapter 489, F.S., provides, in part, for regulation of construction contracting by the Construction Industry Licensing Board (CILB). Section 489.115, F.S., provides that no person may engage in the business of contracting without being certified or registered (licensed). Certificate holders or registrants are required to renew their licenses every two years. Section 489.115, F.S., provides for renewal of a license by the DBPR upon receipt of the renewal application and fee. The certificate holder or registrant must also provide proof of having completed 14 hours of continuing education during the two-year licensure period.

Section 489.116, F.S., provides for inactive and delinquent status of licenses. A certificate holder or registrant may request that a license be placed in an inactive status at the time of renewal. An inactive certificate holder or registrant may apply for active status at any time that all requirements for active status are met, pays any additional licensure fees imposed upon active status certificate holders or registrants and pays any applicable late fees. Section 489.116, F.S., also provides that failure of an active or inactive status certificate holder or registrant to renew before the license expires causing the license to become delinquent in the license cycle following expiration. A delinquent status certificate holder or registrant must apply with a complete application for active or inactive status during the licensure cycle in which a certificate holder or registrant becomes delinquent. Failure by a delinquent status certificate holder or registrant to become active or inactive before the expiration of the current licensure cycle renders the license void by action of law and does not require any further action by the CILB. Any subsequent licensure requires applying for and meeting all requirements imposed on an applicant for initial licensure.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes the DBPR and the boards within the DBPR, including specific authority for the Construction Industry Licensing Board, to reinstate and reactivate a voided license. The bill requires the former licensee to attempt to comply with the statutory requirements for maintaining a license in inactive status but creates an exemption from the inactive status requirements if the failure to comply is a result of illness or unusual hardship. The applicant for relicensure is required to comply with continuing education requirements and pay licensure fees.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 455.271, F.S., to give the licensing boards and the DBPR, if there is no board, the discretion to reinstate the license of a person who has made a good-faith effort to comply with license renewal requirements but has failed to comply because of sickness or unusual hardship. The board or DBPR is to establish by rule the procedure for applying for reinstatement and an application fee. The applicant is required to meet all continuing education requirements, pay appropriate licensing fees, and otherwise be eligible for renewal under chapter 455, F.S.

Section 2. Amends s. 473.313, F.S., to make technical and conforming changes.

Section 3. Amends s. 489.116, F.S., to allow the CILB the discretion to reinstate the license of a person who has made a good-faith effort to comply with licensure renewal statutes but has failed to comply because of sickness or unusual hardship. The CILB is to establish by rule the procedure for applying for reinstatement and an application fee. The applicant is required to meet all continuing education requirements as required in s. 489.115, F.S., pay appropriate licensing fees, and otherwise be eligible for renewal under chapter 489, F.S.

Section 4. Effective date - July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill allows a license that has expired to be reactivated along with the payment of a fee to be determined by the appropriate board or the DBPR. Revenues to the state are anticipated to be insignificant.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The evident impact on the private sector is the opportunity to regain licensure notwithstanding hardships associated with the failure to meet statutory requirements. The economic impact would be associated with the payment of pertinent fees associated with unvoiding a license.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

The bill provides discretion to the board and the DBPR to allow a former licensee to be licensed after the initial license has been voided. The bill also allows the board and the DBPR discretion to create standards to be met by the applicant for relicensure. Whether the board or DBPR will adopt rules to carry out this authority or will issue the license with conditions imposed by the board or DBPR on a case-by-case basis is left to the discretion of the board or DBPR.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 12, 2002 the Committee on Business Regulation adopted three amendments that are traveling with the bill.

Amendment 1 relates to qualifications for licensure by examination for construction contractors. Current requirements include a combination of work experience and formal education as a qualification to sit for the licensure examination for construction contracting. The number of college level credits for courses taken and completed by an applicant for examination are required to be matched by taking and completing an equal number of credits in the study of engineering, architecture, or building construction. The amendment deletes requirements for the completion of matching classroom credits for college level courses to be taken in the study of engineering, architecture, or building construction.

Amendment 2 relates to unlicensed activity by electrical contractors. The amendment increases administrative fines from \$5,000 to \$10,000, authorizes the use of fine revenues for payment of costs associated with prosecution of unlicensed activity, and funding for the creation of a web site on the internet by the DBPR relating to information on unlicensed activity by electrical contractors.

Amendment 3 creates a regulatory program to be administered by the Department of Health for persons operating as portable restroom contractors. The amendment requires registration with the Department of Health. Qualifications for registration include good moral character, passage of an examination, being 18 years of age or older, three years of apprenticeship training, and not having a registration being revoked. Completion of six hours of continuing education annually is required. Administrative penalties include denial of registration and suspension or revocation of registration. Criminal penalties include a first degree misdemeanor.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Alan W. Livingston

Paul Liepshutz