

By Senator Pruitt

28-1260-04

See HB 851

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. 455.32,
5 F.S.; revising the Management Privatization
6 Act; providing definitions; authorizing the
7 department, pursuant to board, commission, or
8 council request, to establish and contract with
9 a nonprofit corporation to perform support
10 services specified pursuant to contract for the
11 applicable profession; providing corporation
12 organization, powers, duties, and staff;
13 authorizing per diem and reimbursement for
14 travel expenses; requiring adherence to the
15 code of ethics for public officers and
16 employees; providing sovereign immunity;
17 providing for corporation boards of directors
18 and for executive director liaisons; providing
19 contract requirements; establishing financing,
20 reporting, recordkeeping, and audit
21 requirements; providing for quarterly
22 assessment and annual certification of contract
23 compliance; providing requirements in the event
24 any provision of the section is held
25 unconstitutional; amending s. 455.2177, F.S.;
26 revising requirements for the monitoring of
27 continuing education compliance; removing
28 provisions relating to privatization and
29 dispute resolution; revising penalties for
30 failure to comply with continuing education
31 requirements; revising requirements for waiver

1 of such monitoring; providing rulemaking
2 authority; amending s. 455.2178, F.S.; revising
3 reporting requirements for continuing education
4 providers; removing provisions relating to
5 private vendors; revising penalties for
6 noncompliant continuing education providers;
7 providing for conduct of investigations and
8 prosecutions of noncompliant continuing
9 education providers; providing rulemaking
10 authority; amending s. 455.2179, F.S.; revising
11 continuing education provider and course
12 approval procedures; revising penalties for
13 failing to teach approved course content;
14 providing for conduct of investigations and
15 prosecutions of noncompliant continuing
16 education providers; providing rulemaking
17 authority; amending s. 455.2281, F.S., relating
18 to unlicensed activities; removing a
19 cross-reference to conform; amending s.
20 481.205, F.S., relating to the Board of
21 Architecture and Interior Design; removing a
22 cross-reference to conform; providing an
23 effective date.

24

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

26

27 Section 1. Section 455.32, Florida Statutes, is
28 amended to read:

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(Substantial rewording of section. See

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s. 455.32, F.S., for present text.)

31

455.32 Management Privatization Act.--

1 (1) This section shall be known by the popular name
2 the "Management Privatization Act."

3 (2) The purpose of this section is to create a model
4 for public-private partnerships for the regulation of
5 Florida's professionals that will ensure a consistent,
6 effective application of regulatory provisions and appropriate
7 budgetary oversight to achieve the most efficient use of
8 public funds. Nonprofit corporations may be established
9 pursuant to this section to provide administrative,
10 investigative, and prosecutorial services to any board created
11 within the department pursuant to chapter 20 in accordance
12 with the provisions of this chapter and the applicable
13 practice act. No additional entities may be created for these
14 purposes.

15 (3) As used in this section, the term:

16 (a) "Board" means any board, commission, or council
17 created within the department pursuant to chapter 20.

18 (b) "Corporation" means any nonprofit corporation with
19 which the department contracts pursuant to subsection (14).

20 (c) "Department" means the Department of Business and
21 Professional Regulation.

22 (d) "Executive director" means an employee of the
23 department who serves as a liaison between the department, the
24 board, and the corporation and is responsible for ensuring
25 that the police powers of the state are not exercised by the
26 corporation, while also serving as the contract monitor.

27 (e) "Performance standards and measurable outcomes"
28 shall include, but not be limited to, timeliness and
29 qualitative criteria for the activities specified in paragraph
30 (6)(o).

31

1 (f) "Secretary" means the Secretary of Business and
2 Professional Regulation.

3 (4) Based upon the request of any board, the
4 department is authorized to establish and contract with a
5 nonprofit corporation to provide administrative,
6 investigative, and prosecutorial services to that board, in
7 accordance with the provisions of this chapter and the
8 applicable practice act and as specified in a contract between
9 the department and the corporation. The privatization request
10 must contain a needs assessment and financial feasibility
11 study. The needs assessment must contain specific performance
12 standards and measurable outcomes and an evaluation of the
13 department's current and projected performance in regard to
14 those standards. The feasibility study must include the
15 financial status of the board for the current fiscal year and
16 the next 2 fiscal years. A financial model for the corporation
17 must also be developed which includes projected costs and
18 expenses for the first 2 years of operation.

19 (5) Any such corporation may hire staff as necessary
20 to carry out its functions. Such staff are not public
21 employees for the purposes of chapter 110 or chapter 112,
22 except that the board of directors and the employees of the
23 corporation are subject to the provisions of s. 112.061 and
24 part III of chapter 112. The provisions of s. 768.28 apply to
25 each such corporation, which is deemed to be a corporation
26 primarily acting as an instrumentality of the state, but which
27 is not an agency within the meaning of s. 20.03(11).

28 (6) Each corporation created to perform the functions
29 provided in this section shall:

30 (a) Be a Florida corporation not for profit,
31 incorporated under the provisions of chapter 617.

1 (b) Provide administrative, investigative, and
2 prosecutorial services to the board in accordance with the
3 provisions of this chapter, the applicable practice act, and
4 the contract required by this section.

5 (c) Receive, hold, and administer property and make
6 only prudent expenditures directly related to the
7 responsibilities of the applicable board and in accordance
8 with the contract required by this section.

9 (d) Be approved by the department to operate for the
10 benefit of the board and in the best interest of the state.

11 (e) Operate under a fiscal year that begins on July 1
12 of each year and ends on June 30 of the following year.

13 (f) Be funded through appropriations allocated to the
14 regulation of the relevant profession from the Professional
15 Regulation Trust Fund pursuant to s. 455.219.

16 (g) Have a five-member board of directors, three of
17 whom are to be appointed by the applicable board and must be
18 licensees regulated by that board and two of whom are to be
19 appointed by the secretary and are laypersons not regulated by
20 that board. Initially, one member shall be appointed for 2
21 years, two members shall be appointed for 3 years, and two
22 members shall be appointed for 4 years. One layperson shall be
23 appointed to a 3-year term and one layperson shall be
24 appointed to a 4-year term. Thereafter, all appointments shall
25 be for 4-year terms. No new member shall serve more than two
26 consecutive terms. Failure to attend three consecutive
27 meetings shall be deemed a resignation from the board of
28 directors, and the vacancy shall be filled by a new
29 appointment.

30 (h) Select its officers in accordance with its bylaws.
31 The members of the board of directors may be removed by the

1 department, for the same reasons that a board member may be
2 removed.

3 (i) Select the president of the management
4 corporation, who shall manage the operations of the
5 corporation, subject to the approval of the board.

6 (j) Use a portion of the interest derived from the
7 corporation account to offset the costs associated with the
8 use of credit cards for payment of fees by applicants or
9 licensees.

10 (k) Operate under a written contract with the
11 department.

12 (l) Provide for an annual financial audit of its
13 financial accounts and records by an independent certified
14 public accountant. The annual audit report shall include a
15 management letter in accordance with s. 11.45 and a detailed
16 supplemental schedule of expenditures for each expenditure
17 category. The annual audit report must be submitted to the
18 board, the department, and the Auditor General for review.

19 (m) Provide for all employees and nonemployees charged
20 with the responsibility of receiving and depositing fee and
21 fine revenues to have a faithful performance bond in such an
22 amount and according to such terms as shall be determined in
23 the contract.

24 (n) Keep financial and statistical information as
25 necessary to completely disclose the financial condition and
26 operation of the corporation and as requested by the Office of
27 Program Policy Analysis and Government Accountability, the
28 Auditor General, and the department.

29 (o) Submit to the secretary, the board, and the
30 Legislature, on or before October 1 of each year, a report
31 describing all of the activities of the corporation for the

1 previous fiscal year which includes, but is not limited to,
2 information concerning the programs and funds that have been
3 transferred to the corporation. The report must include:
4 1. The number of license applications received.
5 2. The number of license applications approved and
6 denied and the number of licenses issued.
7 3. The average time required to issue a license.
8 4. The number of examinations administered and the
9 number of applicants who passed or failed the examination.
10 5. The number of complaints received.
11 6. The number of complaints determined to be legally
12 sufficient.
13 7. The number of complaints dismissed.
14 8. The number of complaints determined to have
15 probable cause.
16 9. The number of administrative complaints issued and
17 the status of the complaints.
18 10. The number and nature of disciplinary actions
19 taken by the board.
20 11. All revenues received and all expenses incurred by
21 the corporation during the preceding fiscal year in its
22 performance of the duties under the contract.
23 12. Any audit performed under paragraph (1), including
24 financial reports and performance audits.
25 13. The status of the compliance of the corporation
26 with all performance-based program measures adopted by the
27 board.
28 (p) Meet or exceed the performance standards and
29 measurable outcomes developed by the board and department.
30 (7) The department shall annually certify that the
31 corporation is complying with the terms of the contract in a

1 manner consistent with the goals and purposes of the board and
2 in the best interest of the state. If the department
3 determines the corporation is not compliant with the terms of
4 the contract, including performance standards and measurable
5 outcomes, the contract may be terminated as provided in
6 paragraph (14)(e).

7 (8) Nothing in this section shall limit the ability of
8 the corporation to enter into contracts and perform all other
9 acts incidental to those contracts that are necessary for the
10 administration of its affairs and for the attainment of its
11 purposes.

12 (9) The corporation may acquire by lease, and
13 maintain, use, and operate, any real or personal property
14 necessary to perform the duties provided by the contract and
15 this section.

16 (10) The corporation may not exercise any authority
17 assigned to the department or board under this section or the
18 practice act of the relevant profession, including determining
19 probable cause to pursue disciplinary action against a
20 licensee, taking final action on license applications or in
21 disciplinary cases, or adopting administrative rules under
22 chapter 120. However, the corporation may make a determination
23 of legal sufficiency to begin the investigative process as
24 provided in s. 455.225.

25 (11) The department shall retain the independent
26 authority to open, investigate, or prosecute any cases or
27 complaints, as necessary to protect the public health, safety,
28 or welfare. In addition, the department shall retain sole
29 authority to issue emergency suspension or restriction orders
30 pursuant to s. 120.60.

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1 (12) The corporation is the sole source and depository
2 for the records of the board, including all historical
3 information and records. The corporation shall maintain those
4 records in accordance with the guidelines of the Department of
5 State and shall not destroy any records prior to the limits
6 imposed by the Department of State.

7 (13) The board shall provide by rule for the
8 procedures the corporation must follow to ensure that all
9 licensure examinations are secure while under the
10 responsibility of the corporation and that there is an
11 appropriate level of monitoring during the licensure
12 examinations.

13 (14) The contract between the department and the
14 corporation must be in compliance with this section and other
15 applicable laws. The department shall retain responsibility
16 for any duties it currently exercises relating to its police
17 powers and any other current duty that is not provided to the
18 corporation by contract or this section. The contract shall
19 provide, at a minimum, that:

20 (a) The corporation provide administrative,
21 investigative, examination, licensing, and prosecutorial
22 services in accordance with the provisions of this section and
23 the practice act of the relevant profession. With approval of
24 the department and the board, the corporation may subcontract
25 for the investigation and prosecution of unlicensed activity
26 pursuant to this chapter.

27 (b) The articles of incorporation and bylaws of the
28 corporation be approved by the department.

29 (c) The corporation submit an annual budget for
30 approval by the department.

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1 (d) The corporation utilize the department's licensing
2 and computerized database system.

3 (e) The corporation be annually certified by the
4 department as complying with the terms of the contract in a
5 manner consistent with the goals and purposes of the board and
6 in the best interest of the state. As part of the annual
7 certification, the department shall make quarterly assessments
8 regarding contract compliance by the corporation. The contract
9 must also provide for methods and mechanisms to resolve any
10 situation in which the assessment and certification process
11 determines noncompliance, to include termination.

12 (f) The department employ an executive director to
13 actively monitor the activities of the corporation to ensure
14 compliance with the contract, the provisions of this chapter,
15 and the applicable practice act.

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

19 (h) If the corporation is no longer approved to
20 operate for the board or the board ceases to exist, all
21 moneys, records, data, and property held in trust by the
22 corporation for the benefit of the board revert to the board,
23 or the state if the board ceases to exist. All records and
24 data in a computerized database must be returned to the
25 department in a form that is compatible with the computerized
26 database of the department.

27 (i) The corporation secure and maintain, during the
28 term of the contract and for all acts performed during the
29 term of the contract, all liability insurance coverages in an
30 amount to be approved by the department to defend, indemnify,
31 and hold harmless the corporation and its officers and

1 employees, the department and its employees, and the state
2 against all claims arising from state and federal laws. Such
3 insurance coverage must be with insurers qualified and doing
4 business in the state. The corporation must provide proof of
5 insurance to the department. The department and its employees
6 and the state are exempt from and are not liable for any sum
7 of money which represents a deductible, which sums shall be
8 the sole responsibility of the corporation. Violation of this
9 paragraph shall be grounds for terminating the contract.

10 (j) The corporation, out of its allocated budget, pay
11 to the department all costs of representation by the board
12 counsel, including salary and benefits, travel, and any other
13 compensation traditionally paid by the department to other
14 board counsels.

15 (k) The corporation, out of its allocated budget, pay
16 to the department all costs incurred by the corporation or the
17 board for the Division of Administrative Hearings of the
18 Department of Management Services and any other cost for
19 utilization of these state services.

20 (l) The corporation, out of its allocated budget, pay
21 to the department all costs associated with the monitoring of
22 the contract, including salary and benefits, travel, and other
23 related costs traditionally paid to state employees.

24 (m) The corporation comply with the performance
25 standards and measurable outcomes developed by the board and
26 the department. The performance standards and measurable
27 outcomes must be specified within the contract.

28 (15) Management corporation records are public records
29 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
30 of the State Constitution; however, public records exemptions
31 set forth in ss. 455.217, 455.225, and 455.229 for records

1 created or maintained by the department shall apply to records
2 created or maintained by the management corporation. In
3 addition, all meetings of the board of directors are open to
4 the public in accordance with s. 286.011 and s. 24(b), Art. I
5 of the State Constitution. The department and the board shall
6 have access to all records of the corporation as necessary to
7 exercise their authority to approve and supervise the
8 contract.

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

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

14 (b) The department shall resume the performance of
15 such activities. The department shall regain and receive,
16 hold, invest, and administer property and make expenditures
17 for the benefit of the board.

18 (c) The Executive Office of the Governor,
19 notwithstanding chapter 216, may reestablish positions, budget
20 authority, and salary rate necessary to carry out the
21 department's responsibilities related to the board.

22 Section 2. Section 455.2177, Florida Statutes, is
23 amended to read:

24 455.2177 Monitoring of compliance with continuing
25 education requirements.--

26 (1) The department shall establish a system to monitor
27 licensee compliance with applicable continuing education
28 requirements and to determine each licensee's continuing
29 education status. ~~The department is authorized to provide for~~
30 ~~a phase-in of the compliance monitoring system, but the system~~
31 ~~must provide for monitoring of compliance with applicable~~

1 ~~continuing education requirements by all professions regulated~~
2 ~~by the department no later than July 1, 2002. The compliance~~
3 ~~monitoring system may use staff of the department or may be~~
4 ~~privatized.~~As used in this section, the term "monitor" means
5 the act of determining, for each licensee, whether the
6 licensee was in full compliance with applicable continuing
7 education requirements as of the time of the licensee's
8 license renewal.

9 ~~(2) If the compliance monitoring system required under~~
10 ~~this section is privatized, the following provisions apply:~~

11 ~~(a) The department may contract pursuant to s. 287.057~~
12 ~~with a vendor or vendors for the monitoring of compliance with~~
13 ~~applicable continuing education requirements by all licensees~~
14 ~~within one or more professions regulated by the department.~~
15 ~~The contract shall include, but need not be limited to, the~~
16 ~~following terms and conditions:~~

17 ~~1.a. The vendor shall create a computer database, in~~
18 ~~the form required by the department, that includes the~~
19 ~~continuing education status of each licensee and shall provide~~
20 ~~a report to the department within 90 days after the vendor~~
21 ~~receives the list of licensees to be monitored as provided in~~
22 ~~sub-subparagraph b. The report shall be in a format determined~~
23 ~~by the department and shall include each licensee's continuing~~
24 ~~education status by license number, hours of continuing~~
25 ~~education credit per cycle, and such other information the~~
26 ~~department deems necessary.~~

27 ~~b. No later than 30 days after the end of each renewal~~
28 ~~period, the department shall provide to the vendor a list that~~
29 ~~includes all licensees of a particular profession whose~~
30 ~~licenses were renewed during a particular renewal period. In~~
31 ~~order to account for late renewals, the department shall~~

1 ~~provide the vendor with such updates to the list as are~~
2 ~~mutually determined to be necessary.~~

3 ~~2.a. Before the vendor informs the department of the~~
4 ~~status of any licensee the vendor has determined is not in~~
5 ~~compliance with continuing education requirements, the vendor,~~
6 ~~acting on behalf of the department, shall provide the licensee~~
7 ~~with a notice stating that the vendor has determined that the~~
8 ~~licensee is not in compliance with applicable continuing~~
9 ~~education requirements. The notice shall also include the~~
10 ~~licensee's continuing education record for the renewal period,~~
11 ~~as shown in the records of the vendor, and a description of~~
12 ~~the process for correcting the vendor's record under~~
13 ~~sub-subparagraph b.~~

14 ~~b. The vendor shall give the licensee 45 days to~~
15 ~~correct the vendor's information. The vendor shall correct a~~
16 ~~record only on the basis of evidence of compliance supplied to~~
17 ~~the vendor by a continuing education provider.~~

18 ~~3.a. The vendor must provide the department, with the~~
19 ~~report required under subparagraph 1., a list, in a form~~
20 ~~determined by the department, identifying each licensee who~~
21 ~~the vendor has determined is not in compliance with applicable~~
22 ~~continuing education requirements.~~

23 ~~b. The vendor shall provide the department with access~~
24 ~~to such information and services as the department deems~~
25 ~~necessary to ensure that the actions of the vendor conform to~~
26 ~~the contract and to the duties of the department and the~~
27 ~~vendor under this subsection.~~

28 ~~4. The department shall ensure the vendor access to~~
29 ~~such information from continuing education providers as is~~
30 ~~necessary to determine the continuing education record of each~~
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1 ~~licensee. The vendor shall inform the department of any~~
2 ~~provider that fails to provide such information to the vendor.~~

3 ~~5. If the vendor fails to comply with a provision of~~
4 ~~the contract, the vendor is obligated to pay the department~~
5 ~~liquidated damages in the amounts specified in the contract.~~

6 ~~6. The department's payments to the vendor must be~~
7 ~~based on the number of licensees monitored. The department may~~
8 ~~allocate from the unlicensed activity account of any~~
9 ~~profession under s. 455.2281 up to \$2 per licensee for the~~
10 ~~monitoring of that profession's licensees under this~~
11 ~~subsection, which allocations are the exclusive source of~~
12 ~~funding for contracts under this subsection.~~

13 ~~7. A continuing education provider is not eligible to~~
14 ~~be a vendor under this subsection.~~

15 ~~(b) When it receives notice from a vendor that a~~
16 ~~licensee is not in compliance with continuing education~~
17 ~~requirements, the department shall send the licensee written~~
18 ~~notice that disciplinary actions will be taken, together with~~
19 ~~a description of the remedies available to the licensee under~~
20 ~~the dispute resolution process created under paragraph (c). If~~
21 ~~a licensee does not prevail in the dispute resolution process,~~
22 ~~the department:~~

23 ~~1. May impose an administrative fine in the amount of~~
24 ~~\$500 against the licensee; however, the department may reduce~~
25 ~~the amount of the fine to \$250 if the licensee comes into~~
26 ~~compliance with the applicable continuing education~~
27 ~~requirements within 90 days after imposition of the original~~
28 ~~fine. All proceeds of fines under this subparagraph shall be~~
29 ~~deposited in the appropriate unlicensed activity account under~~
30 ~~s. 455.2281.~~

31

1 ~~(2)2.~~ The department may refuse ~~any further~~ renewal of
2 ~~a the~~ licensee's license until unless the licensee has paid
3 ~~the fine and satisfied all the~~ applicable continuing education
4 requirements. This subsection does not preclude the department
5 or boards from imposing additional penalties pursuant to the
6 applicable practice act or rules adopted pursuant thereto.

7 ~~(c) The department is authorized to adopt by rule a~~
8 ~~process for the resolution of disputes between a vendor and a~~
9 ~~continuing education provider, between a vendor and a~~
10 ~~licensee, and between a licensee and a continuing education~~
11 ~~provider. The process shall ensure all parties a fair~~
12 ~~opportunity to correct any erroneous information. If the~~
13 ~~parties are unable to reach an agreement, the department shall~~
14 ~~determine the resolution of the dispute.~~

15 ~~(d) Upon the failure of a vendor to meet its~~
16 ~~obligations under a contract as provided in paragraph (a), the~~
17 ~~department may suspend the contract and enter into an~~
18 ~~emergency contract under s. 287.057(5).~~

19 ~~(3) Notwithstanding any other provision of law to the~~
20 ~~contrary and regardless of whether the compliance monitoring~~
21 ~~system is privatized, neither the department nor a board may~~
22 ~~impose any sanction other than the sanctions specified in~~
23 ~~paragraph (2)(b) for the failure of a licensee to meet~~
24 ~~continuing education requirements. This subsection does not~~
25 ~~apply to actions under chapter 473.~~

26 ~~(3)(4)~~ The department may shall waive the continuing
27 education monitoring requirements of this section for any
28 profession that demonstrates to the department that the
29 monitoring system places an undue burden on the profession it
30 ~~has a program in place which measures compliance with~~
31 ~~continuing education requirements through statistical sampling~~

1 ~~techniques or other methods and can indicate that at least 95~~
2 ~~percent of its licensees are in compliance.~~

3 ~~(4)(5)~~ The department may ~~is authorized to~~ adopt rules
4 pursuant to ss. 120.536(1) and 120.54 to implement this
5 section.

6 Section 3. Section 455.2178, Florida Statutes, is
7 amended to read:

8 455.2178 Continuing education providers.--~~If the~~
9 ~~monitoring of compliance with continuing education~~
10 ~~requirements is privatized pursuant to s. 455.2177:~~

11 ~~(1)(a)~~ The department shall notify each approved
12 continuing education provider of the name and address of all
13 vendors that monitor compliance of licensees under s.
14 455.2177. If the department contracts with more than one
15 vendor under s. 455.2177, the notice shall specify the
16 professions to be monitored by each vendor.

17 ~~(b)~~ Each continuing education provider shall provide
18 to the department ~~appropriate vendor~~ such information
19 regarding the continuing education status of licensees as the
20 department determines is necessary ~~for the vendor~~ to carry out
21 its duties under s. 455.2177~~(2)~~, in an electronic format ~~a~~
22 ~~form~~ determined by the department. After a licensee's
23 completion of a course, the information must be submitted to
24 the department ~~vendor~~ electronically no later than 30 calendar
25 5-business days thereafter or prior to the licensee's renewal
26 date, whichever occurs sooner ~~after a licensee's completion of~~
27 ~~a course.~~ The foregoing applies only if the profession has not
28 been granted a waiver from the monitoring requirements
29 pursuant to s. 455.2177. Upon the request of a licensee, the
30 provider must also furnish to the department ~~a vendor~~
31 information regarding courses completed by the licensee.

1 (2) Each continuing education provider shall retain
2 all records relating to a licensee's completion of continuing
3 education courses for at least 4 years after completion of a
4 course.

5 (3) A continuing education provider may not be
6 approved, and the approval may not be renewed, unless the
7 provider agrees in writing to provide such cooperation ~~with~~
8 ~~vendors~~ under this section and s. 455.2177 as the department
9 deems necessary or appropriate.

10 (4) The department may fine, suspend, or ~~immediately~~
11 revoke approval of any continuing education provider that
12 fails to comply with its duties under this section. Such fine
13 may not exceed \$500 per violation. Investigations and
14 prosecutions of a provider's failure to comply with its duties
15 under this section shall be conducted pursuant to s. 455.225.

16 (5) For the purpose of determining which persons or
17 entities must meet the reporting, recordkeeping, and access
18 provisions of this section, the board of any profession
19 subject to this section, or the department if there is no
20 board, shall, by rule, adopt a definition of the term
21 "continuing education provider" applicable to the profession's
22 continuing education requirements. The intent of the rule
23 shall be to ensure that all records and information necessary
24 to carry out the requirements of this section and s. 455.2177
25 are maintained and transmitted accordingly and to minimize
26 disputes as to what person or entity is responsible for
27 maintaining and reporting such records and information.

28 (6) The department may ~~has the authority to~~ adopt
29 rules pursuant to ss. 120.536(1) and 120.54 to implement this
30 section.

31

1 Section 4. Section 455.2179, Florida Statutes, is
2 amended to read:

3 455.2179 Continuing education provider and course
4 approval; cease and desist orders.--

5 (1) If a board, or the department if there is no
6 board, requires completion of continuing education as a
7 requirement for renewal of a license, the board, or the
8 department if there is no board, shall approve providers of
9 the continuing education. The approval of ~~a~~ continuing
10 education providers and courses ~~provider~~ must be for a
11 specified period of time, not to exceed 4 years. An approval
12 that does not include such a time limitation may remain in
13 effect pursuant to the applicable practice act or the rules
14 promulgated thereto ~~only until July 1, 2001, unless earlier~~
15 ~~replaced by an approval that includes such a time limitation.~~

16 (2) The board, or the department if there is no, ~~on~~
17 ~~its own motion or at the request of a board,~~ shall issue an
18 order requiring a person or entity to cease and desist from
19 offering any continuing education programs for licensees, and
20 fining, suspending, or revoking any approval of the provider
21 previously granted by the board, or the department if there is
22 no ~~or a~~ board, if the board, or the department if there is no
23 ~~or a~~ board, determines that the person or entity failed to
24 provide appropriate continuing education services that conform
25 to approved course material. Such fine may not exceed \$500 per
26 violation. Investigations and prosecutions of a provider's
27 failure to comply with its duties under this section shall be
28 conducted pursuant to s. 455.225.

29 (3) Each board authorized to approve continuing
30 education providers, or the department if there is no board,
31 may establish, by rule, a fee not to exceed \$250 for anyone

1 seeking approval to provide continuing education courses and
2 may establish, by rule, a biennial fee not to exceed \$250 for
3 the renewal of providership of such courses. The Florida Real
4 Estate Commission, authorized under the provisions of chapter
5 475 to approve prelicensure, precertification, and
6 postlicensure education providers, may establish, by rule, an
7 application fee not to exceed \$250 for anyone seeking approval
8 to offer prelicensure, precertification, or postlicensure
9 education courses and may establish, by rule, a biennial fee
10 not to exceed \$250 for the renewal of such courses. Such
11 postlicensure education courses shall be subject to the
12 reporting, monitoring, and compliance provisions of this
13 section and ss. 455.2177 and 455.2178.

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

17 Section 5. Section 455.2281, Florida Statutes, is
18 amended to read:

19 455.2281 Unlicensed activities; fees; disposition.--In
20 order to protect the public and to ensure a consumer-oriented
21 department, it is the intent of the Legislature that vigorous
22 enforcement of regulation for all professional activities is a
23 state priority. All enforcement costs should be covered by
24 professions regulated by the department. Therefore, the
25 department shall impose, upon initial licensure and each
26 renewal thereof, a special fee of \$5 per licensee. Such fee
27 shall be in addition to all other fees collected from each
28 licensee and shall fund efforts to combat unlicensed activity.
29 Any profession regulated by the department which offers
30 services that are not subject to regulation when provided by
31 an unlicensed person may use funds in its unlicensed activity

1 account to inform the public of such situation. The board with
2 concurrence of the department, or the department when there is
3 no board, may earmark \$5 of the current licensure fee for this
4 purpose, if such board, or profession regulated by the
5 department, is not in a deficit and has a reasonable cash
6 balance. A board or profession regulated by the department may
7 authorize the transfer of funds from the operating fund
8 account to the unlicensed activity account of that profession
9 if the operating fund account is not in a deficit and has a
10 reasonable cash balance. The department shall make direct
11 charges to this fund by profession and shall not allocate
12 indirect overhead. The department shall seek board advice
13 regarding enforcement methods and strategies prior to
14 expenditure of funds; however, the department may, without
15 board advice, allocate funds to cover the costs of continuing
16 education compliance monitoring under s. 455.2177. The
17 department shall directly credit, by profession, revenues
18 received from the department's efforts to enforce licensure
19 provisions, ~~including revenues received from fines collected~~
20 ~~under s. 455.2177.~~ The department shall include all financial
21 and statistical data resulting from unlicensed activity
22 enforcement and from continuing education compliance
23 monitoring as separate categories in the quarterly management
24 report provided for in s. 455.219. The department shall not
25 charge the account of any profession for the costs incurred on
26 behalf of any other profession. For an unlicensed activity
27 account, a balance which remains at the end of a renewal cycle
28 may, with concurrence of the applicable board and the
29 department, be transferred to the operating fund account of
30 that profession.

31

1 Section 6. Paragraph (b) of subsection (3) of section
2 481.205, Florida Statutes, is amended to read:
3 481.205 Board of Architecture and Interior Design.--
4 (3)
5 (b) ~~Notwithstanding the provisions of s. 455.32(13),~~
6 The board, ~~in lieu of the department,~~ shall contract with a
7 corporation or other business entity pursuant to s. 287.057(3)
8 to provide investigative, legal, prosecutorial, and other
9 services necessary to perform its duties.
10 Section 7. This act shall take effect July 1, 2004.
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