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1 A bill to be entitled

2 An act relating to regulation of professions under the
3 Department of Business and Professional Regulation;
4 amending s. 455.32, F.S.; revising the Management
5 Privatization Act; providing definitions; authorizing the
6 department, pursuant to board, commission, or council
7 request, to establish and contract with a nonprofit
8 corporation to perform support services specified pursuant
9 to contract for the applicable profession; providing
10 corporation organization, powers, duties, and staff;
11 authorizing per diem and reimbursement for travel
12 expenses; requiring adherence to the code of ethics for
13 public officers and employees; providing sovereign
14 immunity; providing for corporation boards of directors
15 and for executive director liaisons; providing contract
16 requirements; establishing financing, reporting,
17 recordkeeping, and audit requirements; providing for
18 quarterly assessment and annual certification of contract
19 compliance; providing requirements in the event any
20 provision of the section is held unconstitutional;
21 amending s. 455.2177, F.S.; revising requirements for the
22 monitoring of continuing education compliance; removing
23 provisions relating to privatization and dispute
24 resolution; revising penalties for failure to comply with
25 continuing education requirements; revising requirements
26 for waiver of such monitoring; providing rulemaking
27 authority; amending s. 455.2178, F.S.; revising reporting
28 requirements for continuing education providers; removing
29 provisions relating to private vendors; revising penalties

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30 for noncompliant continuing education providers; providing
 31 for conduct of investigations and prosecutions of
 32 noncompliant continuing education providers; providing
 33 rulemaking authority; amending s. 455.2179, F.S.; revising
 34 continuing education provider and course approval
 35 procedures; revising penalties for failing to teach
 36 approved course content; providing for conduct of
 37 investigations and prosecutions of noncompliant continuing
 38 education providers; providing rulemaking authority;
 39 amending s. 455.2281, F.S., relating to unlicensed
 40 activities; removing a cross reference to conform;
 41 amending s. 481.205, F.S., relating to the Board of
 42 Architecture and Interior Design; removing a cross
 43 reference to conform; providing an effective date.
 44

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

46
 47 Section 1. Section 455.32, Florida Statutes, is amended to
 48 read:

49 (Substantial rewording of section. See
 50 s. 455.32, F.S., for present text.)

51 455.32 Management Privatization Act.--

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

54 (2) The purpose of this section is to create a model for
 55 public-private partnerships for the regulation of Florida's
 56 professionals that will ensure a consistent, effective
 57 application of regulatory provisions and appropriate budgetary
 58 oversight to achieve the most efficient use of public funds.

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59 Nonprofit corporations may be established pursuant to this
60 section to provide administrative, investigative, and
61 prosecutorial services to any board created within the
62 department pursuant to chapter 20 in accordance with the
63 provisions of this chapter and the applicable practice act. No
64 additional entities may be created for these purposes.

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

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

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

70 (c) "Department" means the Department of Business and
71 Professional Regulation.

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

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

80 (f) "Secretary" means the Secretary of Business and
81 Professional Regulation.

82 (4) Based upon the request of any board, the department is
83 authorized to establish and contract with a nonprofit
84 corporation to provide administrative, investigative, and
85 prosecutorial services to that board, in accordance with the
86 provisions of this chapter and the applicable practice act and
87 as specified in a contract between the department and the

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88 corporation. The privatization request must contain a needs
89 assessment and financial feasibility study. The needs assessment
90 must contain specific performance standards and measurable
91 outcomes and an evaluation of the department's current and
92 projected performance in regard to those standards. The
93 feasibility study must include the financial status of the board
94 for the current fiscal year and the next 2 fiscal years. A
95 financial model for the corporation must also be developed which
96 includes projected costs and expenses for the first 2 years of
97 operation.

98 (5) Any such corporation may hire staff as necessary to
99 carry out its functions. Such staff are not public employees for
100 the purposes of chapter 110 or chapter 112, except that the
101 board of directors and the employees of the corporation are
102 subject to the provisions of s. 112.061 and part III of chapter
103 112. The provisions of s. 768.28 apply to each such corporation,
104 which is deemed to be a corporation primarily acting as an
105 instrumentality of the state, but which is not an agency within
106 the meaning of s. 20.03(11).

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

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

111 (b) Provide administrative, investigative, and
112 prosecutorial services to the board in accordance with the
113 provisions of this chapter, the applicable practice act, and the
114 contract required by this section.

115 (c) Receive, hold, and administer property and make only
116 prudent expenditures directly related to the responsibilities of

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117 the applicable board and in accordance with the contract
118 required by this section.

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

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

123 (f) Be funded through appropriations allocated to the
124 regulation of the relevant profession from the Professional
125 Regulation Trust Fund pursuant to s. 455.219.

126 (g) Have a five-member board of directors, three of whom
127 are to be appointed by the applicable board and must be
128 licensees regulated by that board and two of whom are to be
129 appointed by the secretary and are laypersons not regulated by
130 that board. Initially, one member shall be appointed for 2
131 years, two members shall be appointed for 3 years, and two
132 members shall be appointed for 4 years. One layperson shall be
133 appointed to a 3-year term and one layperson shall be appointed
134 to a 4-year term. Thereafter, all appointments shall be for 4-
135 year terms. No new member shall serve more than two consecutive
136 terms. Failure to attend three consecutive meetings shall be
137 deemed a resignation from the board of directors, and the
138 vacancy shall be filled by a new appointment.

139 (h) Select its officers in accordance with its bylaws. The
140 members of the board of directors may be removed by the
141 department, for the same reasons that a board member may be
142 removed.

143 (i) Select the president of the management corporation,
144 who shall manage the operations of the corporation, subject to
145 the approval of the board.

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

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

150 (l) Provide for an annual financial audit of its financial
151 accounts and records by an independent certified public
152 accountant. The annual audit report shall include a management
153 letter in accordance with s. 11.45 and a detailed supplemental
154 schedule of expenditures for each expenditure category. The
155 annual audit report must be submitted to the board, the
156 department, and the Auditor General for review.

157 (m) Provide for all employees and nonemployees charged
158 with the responsibility of receiving and depositing fee and fine
159 revenues to have a faithful performance bond in such an amount
160 and according to such terms as shall be determined in the
161 contract.

162 (n) Keep financial and statistical information as
163 necessary to completely disclose the financial condition and
164 operation of the corporation and as requested by the Office of
165 Program Policy Analysis and Government Accountability, the
166 Auditor General, and the department.

167 (o) Submit to the secretary, the board, and the
168 Legislature, on or before October 1 of each year, a report
169 describing all of the activities of the corporation for the
170 previous fiscal year which includes, but is not limited to,
171 information concerning the programs and funds that have been
172 transferred to the corporation. The report must include:

- 173 1. The number of license applications received.
174 2. The number of license applications approved and denied

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- 175 and the number of licenses issued.
- 176 3. The average time required to issue a license.
- 177 4. The number of examinations administered and the number
 178 of applicants who passed or failed the examination.
- 179 5. The number of complaints received.
- 180 6. The number of complaints determined to be legally
 181 sufficient.
- 182 7. The number of complaints dismissed.
- 183 8. The number of complaints determined to have probable
 184 cause.
- 185 9. The number of administrative complaints issued and the
 186 status of the complaints.
- 187 10. The number and nature of disciplinary actions taken by
 188 the board.
- 189 11. All revenues received and all expenses incurred by the
 190 corporation during the preceding fiscal year in its performance
 191 of the duties under the contract.
- 192 12. Any audit performed under paragraph (1), including
 193 financial reports and performance audits.
- 194 13. The status of the compliance of the corporation with
 195 all performance-based program measures adopted by the board.
- 196 (p) Meet or exceed the performance standards and
 197 measurable outcomes developed by the board and department.
- 198 (7) The department shall annually certify that the
 199 corporation is complying with the terms of the contract in a
 200 manner consistent with the goals and purposes of the board and
 201 in the best interest of the state. If the department determines
 202 the corporation is not compliant with the terms of the contract,
 203 including performance standards and measurable outcomes, the

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204 contract may be terminated as provided in paragraph (14)(e).

205 (8) Nothing in this section shall limit the ability of the
 206 corporation to enter into contracts and perform all other acts
 207 incidental to those contracts that are necessary for the
 208 administration of its affairs and for the attainment of its
 209 purposes.

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

213 (10) The corporation may not exercise any authority
 214 assigned to the department or board under this section or the
 215 practice act of the relevant profession, including determining
 216 probable cause to pursue disciplinary action against a licensee,
 217 taking final action on license applications or in disciplinary
 218 cases, or adopting administrative rules under chapter 120.
 219 However, the corporation may make a determination of legal
 220 sufficiency to begin the investigative process as provided in s.
 221 455.225.

222 (11) The department shall retain the independent authority
 223 to open, investigate, or prosecute any cases or complaints, as
 224 necessary to protect the public health, safety, or welfare. In
 225 addition, the department shall retain sole authority to issue
 226 emergency suspension or restriction orders pursuant to s.
 227 120.60.

228 (12) The corporation is the sole source and depository for
 229 the records of the board, including all historical information
 230 and records. The corporation shall maintain those records in
 231 accordance with the guidelines of the Department of State and
 232 shall not destroy any records prior to the limits imposed by the

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233 Department of State.

234 (13) The board shall provide by rule for the procedures
235 the corporation must follow to ensure that all licensure
236 examinations are secure while under the responsibility of the
237 corporation and that there is an appropriate level of monitoring
238 during the licensure examinations.

239 (14) The contract between the department and the
240 corporation must be in compliance with this section and other
241 applicable laws. The department shall retain responsibility for
242 any duties it currently exercises relating to its police powers
243 and any other current duty that is not provided to the
244 corporation by contract or this section. The contract shall
245 provide, at a minimum, that:

246 (a) The corporation provide administrative, investigative,
247 examination, licensing, and prosecutorial services in accordance
248 with the provisions of this section and the practice act of the
249 relevant profession. With approval of the department and the
250 board, the corporation may subcontract for the investigation and
251 prosecution of unlicensed activity pursuant to this chapter.

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

254 (c) The corporation submit an annual budget for approval
255 by the department.

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

258 (e) The corporation be annually certified by the
259 department as complying with the terms of the contract in a
260 manner consistent with the goals and purposes of the board and
261 in the best interest of the state. As part of the annual

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262 certification, the department shall make quarterly assessments
 263 regarding contract compliance by the corporation. The contract
 264 must also provide for methods and mechanisms to resolve any
 265 situation in which the assessment and certification process
 266 determines noncompliance, to include termination.

267 (f) The department employ an executive director to
 268 actively monitor the activities of the corporation to ensure
 269 compliance with the contract, the provisions of this chapter,
 270 and the applicable practice act.

271 (g) The corporation be funded through appropriations
 272 allocated to the regulation of the relevant profession from the
 273 Professional Regulation Trust Fund.

274 (h) If the corporation is no longer approved to operate
 275 for the board or the board ceases to exist, all moneys, records,
 276 data, and property held in trust by the corporation for the
 277 benefit of the board revert to the board, or the state if the
 278 board ceases to exist. All records and data in a computerized
 279 database must be returned to the department in a form that is
 280 compatible with the computerized database of the department.

281 (i) The corporation secure and maintain, during the term
 282 of the contract and for all acts performed during the term of
 283 the contract, all liability insurance coverages in an amount to
 284 be approved by the department to defend, indemnify, and hold
 285 harmless the corporation and its officers and employees, the
 286 department and its employees, and the state against all claims
 287 arising from state and federal laws. Such insurance coverage
 288 must be with insurers qualified and doing business in the state.
 289 The corporation must provide proof of insurance to the
 290 department. The department and its employees and the state are

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291 exempt from and are not liable for any sum of money which
 292 represents a deductible, which sums shall be the sole
 293 responsibility of the corporation. Violation of this paragraph
 294 shall be grounds for terminating the contract.

295 (j) The corporation, out of its allocated budget, pay to
 296 the department all costs of representation by the board counsel,
 297 including salary and benefits, travel, and any other
 298 compensation traditionally paid by the department to other board
 299 counsels.

300 (k) The corporation, out of its allocated budget, pay to
 301 the department all costs incurred by the corporation or the
 302 board for the Division of Administrative Hearings of the
 303 Department of Management Services and any other cost for
 304 utilization of these state services.

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

309 (m) The corporation comply with the performance standards
 310 and measurable outcomes developed by the board and the
 311 department. The performance standards and measurable outcomes
 312 must be specified within the contract.

313 (15) Management corporation records are public records
 314 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
 315 of the State Constitution; however, public records exemptions
 316 set forth in ss. 455.217, 455.225, and 455.229 for records
 317 created or maintained by the department shall apply to records
 318 created or maintained by the management corporation. In
 319 addition, all meetings of the board of directors are open to the

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320 public in accordance with s. 286.011 and s. 24(b), Art. I of the
 321 State Constitution. The department and the board shall have
 322 access to all records of the corporation as necessary to
 323 exercise their authority to approve and supervise the contract.

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

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

329 (b) The department shall resume the performance of such
 330 activities. The department shall regain and receive, hold,
 331 invest, and administer property and make expenditures for the
 332 benefit of the board.

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

337 Section 2. Section 455.2177, Florida Statutes, is amended
 338 to read:

339 455.2177 Monitoring of compliance with continuing
 340 education requirements.--

341 (1) The department shall establish a system to monitor
 342 licensee compliance with applicable continuing education
 343 requirements and to determine each licensee's continuing
 344 education status. ~~The department is authorized to provide for a~~
 345 ~~phase in of the compliance monitoring system, but the system~~
 346 ~~must provide for monitoring of compliance with applicable~~
 347 ~~continuing education requirements by all professions regulated~~
 348 ~~by the department no later than July 1, 2002. The compliance~~

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349 ~~monitoring system may use staff of the department or may be~~
350 ~~privatized.~~ As used in this section, the term "monitor" means
351 the act of determining, for each licensee, whether the licensee
352 was in full compliance with applicable continuing education
353 requirements as of the time of the licensee's license renewal.

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

356 ~~(a) The department may contract pursuant to s. 287.057~~
357 ~~with a vendor or vendors for the monitoring of compliance with~~
358 ~~applicable continuing education requirements by all licensees~~
359 ~~within one or more professions regulated by the department. The~~
360 ~~contract shall include, but need not be limited to, the~~
361 ~~following terms and conditions:~~

362 ~~1.a. The vendor shall create a computer database, in the~~
363 ~~form required by the department, that includes the continuing~~
364 ~~education status of each licensee and shall provide a report to~~
365 ~~the department within 90 days after the vendor receives the list~~
366 ~~of licensees to be monitored as provided in sub-subparagraph b.~~
367 ~~The report shall be in a format determined by the department and~~
368 ~~shall include each licensee's continuing education status by~~
369 ~~license number, hours of continuing education credit per cycle,~~
370 ~~and such other information the department deems necessary.~~

371 ~~b. No later than 30 days after the end of each renewal~~
372 ~~period, the department shall provide to the vendor a list that~~
373 ~~includes all licensees of a particular profession whose licenses~~
374 ~~were renewed during a particular renewal period. In order to~~
375 ~~account for late renewals, the department shall provide the~~
376 ~~vendor with such updates to the list as are mutually determined~~
377 ~~to be necessary.~~

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378 ~~2.a. Before the vendor informs the department of the~~
379 ~~status of any licensee the vendor has determined is not in~~
380 ~~compliance with continuing education requirements, the vendor,~~
381 ~~acting on behalf of the department, shall provide the licensee~~
382 ~~with a notice stating that the vendor has determined that the~~
383 ~~licensee is not in compliance with applicable continuing~~
384 ~~education requirements. The notice shall also include the~~
385 ~~licensee's continuing education record for the renewal period,~~
386 ~~as shown in the records of the vendor, and a description of the~~
387 ~~process for correcting the vendor's record under sub-~~
388 ~~subparagraph b.~~

389 ~~b. The vendor shall give the licensee 45 days to correct~~
390 ~~the vendor's information. The vendor shall correct a record only~~
391 ~~on the basis of evidence of compliance supplied to the vendor by~~
392 ~~a continuing education provider.~~

393 ~~3.a. The vendor must provide the department, with the~~
394 ~~report required under subparagraph 1., a list, in a form~~
395 ~~determined by the department, identifying each licensee who the~~
396 ~~vendor has determined is not in compliance with applicable~~
397 ~~continuing education requirements.~~

398 ~~b. The vendor shall provide the department with access to~~
399 ~~such information and services as the department deems necessary~~
400 ~~to ensure that the actions of the vendor conform to the contract~~
401 ~~and to the duties of the department and the vendor under this~~
402 ~~subsection.~~

403 ~~4. The department shall ensure the vendor access to such~~
404 ~~information from continuing education providers as is necessary~~
405 ~~to determine the continuing education record of each licensee.~~

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406 ~~The vendor shall inform the department of any provider that~~
407 ~~fails to provide such information to the vendor.~~

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

411 ~~6. The department's payments to the vendor must be based~~
412 ~~on the number of licensees monitored. The department may~~
413 ~~allocate from the unlicensed activity account of any profession~~
414 ~~under s. 455.2281 up to \$2 per licensee for the monitoring of~~
415 ~~that profession's licensees under this subsection, which~~
416 ~~allocations are the exclusive source of funding for contracts~~
417 ~~under this subsection.~~

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

420 ~~(b) When it receives notice from a vendor that a licensee~~
421 ~~is not in compliance with continuing education requirements, the~~
422 ~~department shall send the licensee written notice that~~
423 ~~disciplinary actions will be taken, together with a description~~
424 ~~of the remedies available to the licensee under the dispute~~
425 ~~resolution process created under paragraph (c). If a licensee~~
426 ~~does not prevail in the dispute resolution process, the~~
427 ~~department:~~

428 ~~1. May impose an administrative fine in the amount of \$500~~
429 ~~against the licensee; however, the department may reduce the~~
430 ~~amount of the fine to \$250 if the licensee comes into compliance~~
431 ~~with the applicable continuing education requirements within 90~~
432 ~~days after imposition of the original fine. All proceeds of~~
433 ~~finances under this subparagraph shall be deposited in the~~
434 ~~appropriate unlicensed activity account under s. 455.2281.~~

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435 (2)2- The department may refuse ~~any further~~ renewal of a
 436 ~~the~~ licensee's license until ~~unless~~ the licensee has ~~paid the~~
 437 ~~fine and~~ satisfied all the applicable continuing education
 438 requirements. This subsection does not preclude the department
 439 or boards from imposing additional penalties pursuant to the
 440 applicable practice act or rules adopted pursuant thereto.

441 ~~(c) The department is authorized to adopt by rule a~~
 442 ~~process for the resolution of disputes between a vendor and a~~
 443 ~~continuing education provider, between a vendor and a licensee,~~
 444 ~~and between a licensee and a continuing education provider. The~~
 445 ~~process shall ensure all parties a fair opportunity to correct~~
 446 ~~any erroneous information. If the parties are unable to reach an~~
 447 ~~agreement, the department shall determine the resolution of the~~
 448 ~~dispute.~~

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

453 ~~(3) Notwithstanding any other provision of law to the~~
 454 ~~contrary and regardless of whether the compliance monitoring~~
 455 ~~system is privatized, neither the department nor a board may~~
 456 ~~impose any sanction other than the sanctions specified in~~
 457 ~~paragraph (2)(b) for the failure of a licensee to meet~~
 458 ~~continuing education requirements. This subsection does not~~
 459 ~~apply to actions under chapter 473.~~

460 (3)(4) The department may ~~shall~~ waive the continuing
 461 education monitoring requirements of this section for any
 462 profession that demonstrates to the department that the
 463 monitoring system places an undue burden on the profession ~~it~~

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464 ~~has a program in place which measures compliance with continuing~~
 465 ~~education requirements through statistical sampling techniques~~
 466 ~~or other methods and can indicate that at least 95 percent of~~
 467 ~~its licensees are in compliance.~~

468 ~~(4)(5)~~ The department may ~~is authorized to~~ adopt rules
 469 pursuant to ss. 120.536(1) and 120.54 to implement this section.

470 Section 3. Section 455.2178, Florida Statutes, is amended
 471 to read:

472 455.2178 Continuing education providers.--~~If the~~
 473 ~~monitoring of compliance with continuing education requirements~~
 474 ~~is privatized pursuant to s. 455.2177:~~

475 ~~(1)(a)~~ The department shall notify each approved
 476 ~~continuing education provider of the name and address of all~~
 477 ~~vendors that monitor compliance of licensees under s. 455.2177.~~
 478 ~~If the department contracts with more than one vendor under s.~~
 479 ~~455.2177, the notice shall specify the professions to be~~
 480 ~~monitored by each vendor.~~

481 ~~(b)~~ Each continuing education provider shall provide to
 482 the department ~~appropriate vendor~~ such information regarding the
 483 continuing education status of licensees as the department
 484 determines is necessary ~~for the vendor~~ to carry out its duties
 485 under s. 455.2177~~(2)~~, in an electronic format ~~a form~~ determined
 486 by the department. After a licensee's completion of a course,
 487 the information must be submitted to the department ~~vendor~~
 488 electronically no later than 30 calendar ~~5 business~~ days
 489 thereafter or prior to the licensee's renewal date, whichever
 490 occurs sooner ~~after a licensee's completion of a course.~~ The
 491 foregoing applies only if the profession has not been granted a
 492 waiver from the monitoring requirements pursuant to s. 455.2177.

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493 Upon the request of a licensee, the provider must also furnish
 494 to the department ~~a vendor~~ information regarding courses
 495 completed by the licensee.

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

500 (3) A continuing education provider may not be approved,
 501 and the approval may not be renewed, unless the provider agrees
 502 in writing to provide such cooperation ~~with vendors~~ under this
 503 section and s. 455.2177 as the department deems necessary or
 504 appropriate.

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

511 (5) For the purpose of determining which persons or
 512 entities must meet the reporting, recordkeeping, and access
 513 provisions of this section, the board of any profession subject
 514 to this section, or the department if there is no board, shall,
 515 by rule, adopt a definition of the term "continuing education
 516 provider" applicable to the profession's continuing education
 517 requirements. The intent of the rule shall be to ensure that all
 518 records and information necessary to carry out the requirements
 519 of this section and s. 455.2177 are maintained and transmitted
 520 accordingly and to minimize disputes as to what person or entity

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521 is responsible for maintaining and reporting such records and
 522 information.

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

525 Section 4. Section 455.2179, Florida Statutes, is amended
 526 to read:

527 455.2179 Continuing education provider and course
 528 approval; cease and desist orders.--

529 (1) If a board, or the department if there is no board,
 530 requires completion of continuing education as a requirement for
 531 renewal of a license, the board, or the department if there is
 532 no board, shall approve providers of the continuing education.
 533 The approval of a continuing education providers and courses
 534 ~~provider~~ must be for a specified period of time, not to exceed 4
 535 years. An approval that does not include such a time limitation
 536 may remain in effect pursuant to the applicable practice act or
 537 the rules promulgated thereto ~~only until July 1, 2001, unless~~
 538 ~~earlier replaced by an approval that includes such a time~~
 539 ~~limitation.~~

540 (2) The board, or the department ~~if there is no, on its~~
 541 ~~own motion or at the request of a~~ board, shall issue an order
 542 requiring a person or entity to cease and desist from offering
 543 any continuing education programs for licensees, and fining,
 544 suspending, or revoking any approval of the provider previously
 545 granted by the board, or the department ~~if there is no or a~~
 546 board, if the board, or the department ~~if there is no or a~~
 547 board, determines that the person or entity failed to provide
 548 appropriate continuing education services that conform to
 549 approved course material. Such fine may not exceed \$500 per

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550 violation. Investigations and prosecutions of a provider's
 551 failure to comply with its duties under this section shall be
 552 conducted pursuant to s. 455.225.

553 (3) Each board authorized to approve continuing education
 554 providers, or the department if there is no board, may
 555 establish, by rule, a fee not to exceed \$250 for anyone seeking
 556 approval to provide continuing education courses and may
 557 establish, by rule, a biennial fee not to exceed \$250 for the
 558 renewal of providership of such courses. The Florida Real Estate
 559 Commission, authorized under the provisions of chapter 475 to
 560 approve prelicensure, precertification, and postlicensure
 561 education providers, may establish, by rule, an application fee
 562 not to exceed \$250 for anyone seeking approval to offer
 563 prelicensure, precertification, or postlicensure education
 564 courses and may establish, by rule, a biennial fee not to exceed
 565 \$250 for the renewal of such courses. Such postlicensure
 566 education courses shall be subject to the reporting, monitoring,
 567 and compliance provisions of this section and ss. 455.2177 and
 568 455.2178.

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

572 Section 5. Section 455.2281, Florida Statutes, is amended
 573 to read:

574 455.2281 Unlicensed activities; fees; disposition.--In
 575 order to protect the public and to ensure a consumer-oriented
 576 department, it is the intent of the Legislature that vigorous
 577 enforcement of regulation for all professional activities is a
 578 state priority. All enforcement costs should be covered by

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579 | professions regulated by the department. Therefore, the
 580 | department shall impose, upon initial licensure and each renewal
 581 | thereof, a special fee of \$5 per licensee. Such fee shall be in
 582 | addition to all other fees collected from each licensee and
 583 | shall fund efforts to combat unlicensed activity. Any profession
 584 | regulated by the department which offers services that are not
 585 | subject to regulation when provided by an unlicensed person may
 586 | use funds in its unlicensed activity account to inform the
 587 | public of such situation. The board with concurrence of the
 588 | department, or the department when there is no board, may
 589 | earmark \$5 of the current licensure fee for this purpose, if
 590 | such board, or profession regulated by the department, is not in
 591 | a deficit and has a reasonable cash balance. A board or
 592 | profession regulated by the department may authorize the
 593 | transfer of funds from the operating fund account to the
 594 | unlicensed activity account of that profession if the operating
 595 | fund account is not in a deficit and has a reasonable cash
 596 | balance. The department shall make direct charges to this fund
 597 | by profession and shall not allocate indirect overhead. The
 598 | department shall seek board advice regarding enforcement methods
 599 | and strategies prior to expenditure of funds; however, the
 600 | department may, without board advice, allocate funds to cover
 601 | the costs of continuing education compliance monitoring under s.
 602 | 455.2177. The department shall directly credit, by profession,
 603 | revenues received from the department's efforts to enforce
 604 | licensure provisions, ~~including revenues received from fines~~
 605 | ~~collected under s. 455.2177.~~ The department shall include all
 606 | financial and statistical data resulting from unlicensed
 607 | activity enforcement and from continuing education compliance

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608 monitoring as separate categories in the quarterly management
 609 report provided for in s. 455.219. The department shall not
 610 charge the account of any profession for the costs incurred on
 611 behalf of any other profession. For an unlicensed activity
 612 account, a balance which remains at the end of a renewal cycle
 613 may, with concurrence of the applicable board and the
 614 department, be transferred to the operating fund account of that
 615 profession.

616 Section 6. Paragraph (b) of subsection (3) of section
 617 481.205, Florida Statutes, is amended to read:

618 481.205 Board of Architecture and Interior Design.--

619 (3)

620 (b) ~~Notwithstanding the provisions of s. 455.32(13),~~ The
 621 board, ~~in lieu of the department,~~ shall contract with a
 622 corporation or other business entity pursuant to s. 287.057(3)
 623 to provide investigative, legal, prosecutorial, and other
 624 services necessary to perform its duties.

625 Section 7. This act shall take effect July 1, 2004.