

CHAMBER ACTION

1 The Committee on Business Regulation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to regulation of professions under the
7 Department of Business and Professional Regulation;
8 amending s. 455.32, F.S.; revising the Management
9 Privatization Act; providing definitions; authorizing the
10 department, pursuant to board, commission, or council
11 request, to establish and contract with a nonprofit
12 corporation to perform support services specified pursuant
13 to contract for the applicable profession; requiring
14 development of a business case subject to executive and
15 legislative approval; providing corporation organization,
16 powers, duties, and staff; authorizing per diem and
17 reimbursement for travel expenses; requiring adherence to
18 the code of ethics for public officers and employees;
19 providing sovereign immunity; providing for corporation
20 boards of directors and for contract managers; providing
21 contract requirements; establishing financing, reporting,
22 recordkeeping, and audit requirements; providing for
23 quarterly assessment and annual certification of contract

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24 compliance; providing requirements in the event any
25 provision of the section is held unconstitutional;
26 amending s. 455.2177, F.S.; revising requirements for the
27 monitoring of continuing education compliance; removing
28 provisions relating to privatization and dispute
29 resolution; revising penalties for failure to comply with
30 continuing education requirements; revising requirements
31 for waiver of such monitoring; providing rulemaking
32 authority; amending s. 455.2178, F.S.; revising reporting
33 requirements for continuing education providers; removing
34 provisions relating to private vendors; revising penalties
35 for noncompliant continuing education providers; providing
36 for conduct of investigations and prosecutions of
37 noncompliant continuing education providers; providing
38 rulemaking authority; amending s. 455.2179, F.S.; revising
39 continuing education provider and course approval
40 procedures; revising penalties for failing to teach
41 approved course content; providing for conduct of
42 investigations and prosecutions of noncompliant continuing
43 education providers; providing rulemaking authority;
44 amending s. 455.2281, F.S., relating to unlicensed
45 activities; removing a cross reference to conform;
46 amending s. 481.205, F.S., relating to the Board of
47 Architecture and Interior Design; removing a cross
48 reference to conform; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:
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52 Section 1. Section 455.32, Florida Statutes, is amended to
53 read:

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

56 455.32 Management Privatization Act.--

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

59 (2) The purpose of this section is to create a model for
60 contracting with nonprofit corporations to provide services for
61 the regulation of Florida's professionals that will ensure a
62 consistent, effective application of regulatory provisions and
63 appropriate budgetary oversight to achieve the most efficient
64 use of public funds. Nonprofit corporations may be established
65 pursuant to this section to provide administrative, examination,
66 licensing, investigative, and prosecutorial services to any
67 board created within the department pursuant to chapter 20 in
68 accordance with the provisions of this chapter and the
69 applicable practice act. No additional entities may be created
70 to provide these services.

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

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

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

76 (c) "Department" means the Department of Business and
77 Professional Regulation.

78 (d) "Contract manager" means an employee of the department
79 who serves as a liaison between the department, the board, and

80 the corporation and is responsible for ensuring that the police
 81 powers of the state are not exercised by the corporation, while
 82 also serving as the contract monitor.

83 (e) "Business case" means a needs assessment, financial
 84 feasibility study, and corporate financial model as specified in
 85 subsection (4).

86 (f) "Performance standards and measurable outcomes" shall
 87 include, but not be limited to, timeliness and qualitative
 88 criteria for the activities specified in paragraph (6)(o).

89 (g) "Secretary" means the Secretary of Business and
 90 Professional Regulation.

91 (4) Based upon the request of any board, the department is
 92 authorized to establish and contract with a nonprofit
 93 corporation to provide administrative, examination, licensing,
 94 investigative, and prosecutorial services to that board, in
 95 accordance with the provisions of this chapter and the
 96 applicable practice act and as specified in a contract between
 97 the department and the corporation. The privatization request
 98 must contain a business case which includes a needs assessment
 99 and financial feasibility study performed by the board or an
 100 entity commissioned by a majority vote of the board. The needs
 101 assessment must contain specific performance standards and
 102 measurable outcomes and an evaluation of the department's
 103 current and projected performance in regard to those standards.
 104 The feasibility study must include the financial status of the
 105 board for the current fiscal year and the next 2 fiscal years. A
 106 financial model for the corporation must also be developed which
 107 includes projected costs and expenses for the first 2 years of

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108 operation and specific performance standards and measurable
109 outcomes. The business case must be approved by the Executive
110 Office of the Governor and the Legislative Budget Commission
111 prior to the establishment of the nonprofit corporation.

112 (5) Any such corporation may hire staff as necessary to
113 carry out its functions. Such staff are not public employees for
114 the purposes of chapter 110 or chapter 112, except that the
115 board of directors and the employees of the corporation are
116 subject to the provisions of s. 112.061 and part III of chapter
117 112. The provisions of s. 768.28 apply to each such corporation,
118 which is deemed to be a corporation primarily acting as an
119 instrumentality of the state, but which is not an agency within
120 the meaning of s. 20.03(11).

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

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

125 (b) Provide administrative, examination, licensing,
126 investigative, and prosecutorial services to the board, which
127 services may include unlicensed activity investigations and
128 prosecutions, in accordance with the provisions of this chapter,
129 the applicable practice act, and the contract required by this
130 section.

131 (c) Receive, hold, and administer property and make only
132 prudent expenditures directly related to the responsibilities of
133 the applicable board and in accordance with the contract
134 required by this section.

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

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

139 (f) Be funded through appropriations allocated to the
 140 regulation of the relevant profession from the Professional
 141 Regulation Trust Fund pursuant to s. 455.219.

142 (g) Have a five-member board of directors, three of whom
 143 are to be appointed by the applicable board and must be
 144 licensees regulated by that board and two of whom are to be
 145 appointed by the secretary and are laypersons not regulated by
 146 that board. Initially, one member shall be appointed for 2
 147 years, two members shall be appointed for 3 years, and two
 148 members shall be appointed for 4 years. One layperson shall be
 149 appointed to a 3-year term and one layperson shall be appointed
 150 to a 4-year term. Thereafter, all appointments shall be for 4-
 151 year terms. No new member shall serve more than two consecutive
 152 terms. Failure to attend three consecutive meetings shall be
 153 deemed a resignation from the board of directors, and the
 154 vacancy shall be filled by a new appointment. No professional
 155 board member may also serve on the board of directors for the
 156 corporation.

157 (h) Select its officers in accordance with its bylaws. The
 158 members of the board of directors may be removed by the Governor
 159 for the same reasons that a board member may be removed pursuant
 160 to s. 455.209.

161 (i) Select the president of the corporation, who shall
 162 manage the operations of the corporation, subject to the
 163 approval of the board.

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

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

168 (l) Provide for an annual financial audit of its financial
 169 accounts and records by an independent certified public
 170 accountant. The annual audit report shall include a management
 171 letter in accordance with s. 11.45 and a detailed supplemental
 172 schedule of expenditures for each expenditure category. The
 173 annual audit report must be submitted to the board, the
 174 department, and the Auditor General for review.

175 (m) Provide for all employees and nonemployees charged
 176 with the responsibility of receiving and depositing fee and fine
 177 revenues to have a faithful performance bond in such an amount
 178 and according to such terms as shall be determined in the
 179 contract.

180 (n) Keep financial and statistical information as
 181 necessary to completely disclose the financial condition and
 182 operation of the corporation and as requested by the Office of
 183 Program Policy Analysis and Government Accountability, the
 184 Auditor General, and the department.

185 (o) Submit to the secretary, the board, the President of
 186 the Senate, and the Speaker of the House of Representatives, on
 187 or before October 1 of each year, a report describing all of the
 188 activities of the corporation for the previous fiscal year which

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189 includes, but is not limited to, information concerning the
 190 programs and funds that have been transferred to the
 191 corporation. The report must include:
 192 1. The number of license renewals.
 193 2. The number of license applications received.
 194 3. The number of license applications approved and denied
 195 and the number of licenses issued.
 196 4. The average time required to issue a license.
 197 5. The number of examinations administered and the number
 198 of applicants who passed or failed the examination.
 199 6. The number of complaints received.
 200 7. The number of complaints determined to be legally
 201 sufficient.
 202 8. The number of complaints dismissed.
 203 9. The number of complaints determined to have probable
 204 cause.
 205 10. The number of administrative complaints issued and the
 206 status of the complaints.
 207 11. The number and nature of disciplinary actions taken by
 208 the board.
 209 12. All revenues received and all expenses incurred by the
 210 corporation during the preceding fiscal year in its performance
 211 of the duties under the contract.
 212 13. Any audit performed under paragraph (1), including
 213 financial reports and performance audits.
 214 14. The status of the compliance of the corporation with
 215 all performance-based program measures adopted by the board.

216 (p) Meet or exceed the requirements of the business case
 217 developed by the board and approved by the Executive Office of
 218 the Governor and the Legislative Budget Commission.

219 (7) The department shall annually certify that the
 220 corporation is complying with the terms of the contract in a
 221 manner consistent with the goals and purposes of the board and
 222 in the best interest of the state. If the department determines
 223 the corporation is not compliant with the terms of the contract,
 224 including performance standards and measurable outcomes, the
 225 contract may be terminated as provided in paragraph (14)(e).

226 (8) Nothing in this section shall limit the ability of the
 227 corporation to enter into contracts and perform all other acts
 228 incidental to those contracts that are necessary for the
 229 administration of its affairs and for the attainment of its
 230 purposes.

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

234 (10) The corporation may exercise the authority assigned
 235 to the department or board under this section or the practice
 236 act of the relevant profession, pursuant to the contract,
 237 including, but not limited to, initiating disciplinary
 238 investigations for unlicensed practice of the relevant
 239 profession. The corporation may make a determination of legal
 240 sufficiency to begin the investigative process as provided in s.
 241 455.225. However, the department or the board may not delegate
 242 to the corporation, by contract or otherwise, the authority for
 243 determining probable cause to pursue disciplinary action against

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244 a licensee, taking final action on license actions or on
 245 disciplinary cases, or adopting administrative rules under
 246 chapter 120.

247 (11) The department shall retain the independent authority
 248 to open, investigate, or prosecute any cases or complaints, as
 249 necessary to protect the public health, safety, or welfare. In
 250 addition, the department shall retain sole authority to issue
 251 emergency suspension or restriction orders pursuant to s. 120.60
 252 or may delegate concurrent authority for this purpose to the
 253 relevant professional board.

254 (12) The corporation is the sole source and depository for
 255 the records of the board, including all historical information
 256 and records. The corporation shall maintain those records in
 257 accordance with the guidelines of the Department of State and
 258 shall not destroy any records prior to the limits imposed by the
 259 Department of State.

260 (13) The board shall provide by rule for the procedures
 261 the corporation must follow to ensure that all licensure
 262 examinations are secure while under the responsibility of the
 263 corporation and that there is an appropriate level of monitoring
 264 during the licensure examinations.

265 (14) The contract between the department and the
 266 corporation must be in compliance with this section and other
 267 applicable laws. The department shall retain responsibility for
 268 any duties it currently exercises relating to its police powers
 269 and any other current duty that is not provided to the
 270 corporation by contract or this section. The contract shall
 271 provide, at a minimum, that:

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272 (a) The corporation provide administrative, examination,
273 licensing, investigative, and prosecutorial services in
274 accordance with the provisions of this section and the practice
275 act of the relevant profession. The prosecutorial functions of
276 the corporation shall include the authority to pursue
277 investigations leading to unlicensed practice complaints, with
278 the approval of and at the direction of the relevant
279 professional board. With approval of the department and the
280 board, the corporation may subcontract for specialized services
281 for the investigation and prosecution of unlicensed activity
282 pursuant to this chapter. The corporation shall be required to
283 report all criminal matters, including unlicensed activity that
284 constitutes a crime, to the state attorney for criminal
285 prosecution pursuant to s. 455.2277.

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

288 (c) The corporation submit an annual budget for approval
289 by the department. If the department's appropriations request
290 differs from the budget submitted by the corporation, the
291 relevant professional board shall be permitted to authorize the
292 inclusion in the appropriations request a comment or statement
293 of disagreement with the department's request.

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

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

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300 certification, the department shall make quarterly assessments
301 regarding contract compliance by the corporation. The contract
302 must also provide for methods and mechanisms to resolve any
303 situation in which the assessment and certification process
304 determines noncompliance, to include termination.

305 (f) The department employ a contract manager to actively
306 monitor the activities of the corporation to ensure compliance
307 with the contract, the provisions of this chapter, and the
308 applicable practice act.

309 (g) The corporation be funded through appropriations
310 allocated to the regulation of the relevant profession from the
311 Professional Regulation Trust Fund.

312 (h) If the corporation is no longer approved to operate
313 for the board or the board ceases to exist, all moneys, records,
314 data, and property held in trust by the corporation for the
315 benefit of the board revert to the department, or the state if
316 the department ceases to exist. All records and data in a
317 computerized database must be returned to the department in a
318 form that is compatible with the computerized database of the
319 department.

320 (i) The corporation secure and maintain, during the term
321 of the contract and for all acts performed during the term of
322 the contract, all liability insurance coverages in an amount to
323 be approved by the department to defend, indemnify, and hold
324 harmless the corporation and its officers and employees, the
325 department and its employees, the board, and the state against
326 all claims arising from state and federal laws. Such insurance
327 coverage must be with insurers qualified and doing business in

328 the state. The corporation must provide proof of insurance to
 329 the department. The department and its employees, the board, and
 330 the state are exempt from and are not liable for any sum of
 331 money which represents a deductible, which sums shall be the
 332 sole responsibility of the corporation. Violation of this
 333 paragraph shall be grounds for terminating the contract.

334 (j) The board, in lieu of the department, retain board
 335 counsel pursuant to the requirements of s. 455.221; however, the
 336 corporation, out of its allocated budget, shall pay all costs of
 337 representation by the board counsel, including salary and
 338 benefits, travel, and any other compensation traditionally paid
 339 by the department to other board counsels.

340 (k) The corporation, out of its allocated budget, pay to
 341 the department all costs incurred by the corporation or the
 342 board for the Division of Administrative Hearings of the
 343 Department of Management Services and any other cost for
 344 utilization of these state services.

345 (l) The corporation, out of its allocated budget, pay to
 346 the department all direct and indirect costs associated with the
 347 monitoring of the contract, including salary and benefits,
 348 travel, and other related costs traditionally paid to state
 349 employees.

350 (m) The corporation comply with the performance standards
 351 and measurable outcomes developed by the board and the
 352 department. The performance standards and measurable outcomes
 353 must be specified within the contract.

354 (15) Corporation records are public records subject to the
 355 provisions of s. 119.07(1) and s. 24(a), Art. I of the State

356 Constitution; however, public records exemptions set forth in
 357 ss. 455.217, 455.225, and 455.229 for records held by the
 358 department shall apply to records held by the corporation. In
 359 addition, all meetings of the board of directors are open to the
 360 public in accordance with s. 286.011 and s. 24(b), Art. I of the
 361 State Constitution. The department and the board shall have
 362 access to all records of the corporation as necessary to
 363 exercise their authority to approve and supervise the contract.
 364 Both the Auditor General and the Office of Program Policy
 365 Analysis and Government Accountability shall have access to all
 366 records of the corporation as necessary to conduct financial and
 367 operational audits.

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

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

373 (b) The department shall resume the performance of such
 374 activities. The department shall regain and receive, hold,
 375 invest, and administer property and make expenditures for the
 376 benefit of the board.

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

381 Section 2. Section 455.2177, Florida Statutes, is amended
 382 to read:

383 455.2177 Monitoring of compliance with continuing
384 education requirements.--

385 (1) The department shall establish a system to monitor
386 licensee compliance with applicable continuing education
387 requirements and to determine each licensee's continuing
388 education status. ~~The department is authorized to provide for a~~
389 ~~phase in of the compliance monitoring system, but the system~~
390 ~~must provide for monitoring of compliance with applicable~~
391 ~~continuing education requirements by all professions regulated~~
392 ~~by the department no later than July 1, 2002. The compliance~~
393 ~~monitoring system may use staff of the department or may be~~
394 ~~privatized.~~ As used in this section, the term "monitor" means
395 the act of determining, for each licensee, whether the licensee
396 was in full compliance with applicable continuing education
397 requirements as of the time of the licensee's license renewal.

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

400 ~~(a) The department may contract pursuant to s. 287.057~~
401 ~~with a vendor or vendors for the monitoring of compliance with~~
402 ~~applicable continuing education requirements by all licensees~~
403 ~~within one or more professions regulated by the department. The~~
404 ~~contract shall include, but need not be limited to, the~~
405 ~~following terms and conditions:~~

406 ~~1.a. The vendor shall create a computer database, in the~~
407 ~~form required by the department, that includes the continuing~~
408 ~~education status of each licensee and shall provide a report to~~
409 ~~the department within 90 days after the vendor receives the list~~
410 ~~of licensees to be monitored as provided in sub-subparagraph b.~~

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411 ~~The report shall be in a format determined by the department and~~
412 ~~shall include each licensee's continuing education status by~~
413 ~~license number, hours of continuing education credit per cycle,~~
414 ~~and such other information the department deems necessary.~~

415 ~~b. No later than 30 days after the end of each renewal~~
416 ~~period, the department shall provide to the vendor a list that~~
417 ~~includes all licensees of a particular profession whose licenses~~
418 ~~were renewed during a particular renewal period. In order to~~
419 ~~account for late renewals, the department shall provide the~~
420 ~~vendor with such updates to the list as are mutually determined~~
421 ~~to be necessary.~~

422 ~~2.a. Before the vendor informs the department of the~~
423 ~~status of any licensee the vendor has determined is not in~~
424 ~~compliance with continuing education requirements, the vendor,~~
425 ~~acting on behalf of the department, shall provide the licensee~~
426 ~~with a notice stating that the vendor has determined that the~~
427 ~~licensee is not in compliance with applicable continuing~~
428 ~~education requirements. The notice shall also include the~~
429 ~~licensee's continuing education record for the renewal period,~~
430 ~~as shown in the records of the vendor, and a description of the~~
431 ~~process for correcting the vendor's record under sub-~~
432 ~~subparagraph b.~~

433 ~~b. The vendor shall give the licensee 45 days to correct~~
434 ~~the vendor's information. The vendor shall correct a record only~~
435 ~~on the basis of evidence of compliance supplied to the vendor by~~
436 ~~a continuing education provider.~~

437 ~~3.a. The vendor must provide the department, with the~~
438 ~~report required under subparagraph 1., a list, in a form~~

439 ~~determined by the department, identifying each licensee who the~~
 440 ~~vendor has determined is not in compliance with applicable~~
 441 ~~continuing education requirements.~~

442 ~~b. The vendor shall provide the department with access to~~
 443 ~~such information and services as the department deems necessary~~
 444 ~~to ensure that the actions of the vendor conform to the contract~~
 445 ~~and to the duties of the department and the vendor under this~~
 446 ~~subsection.~~

447 ~~4. The department shall ensure the vendor access to such~~
 448 ~~information from continuing education providers as is necessary~~
 449 ~~to determine the continuing education record of each licensee.~~
 450 ~~The vendor shall inform the department of any provider that~~
 451 ~~fails to provide such information to the vendor.~~

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

455 ~~6. The department's payments to the vendor must be based~~
 456 ~~on the number of licensees monitored. The department may~~
 457 ~~allocate from the unlicensed activity account of any profession~~
 458 ~~under s. 455.2281 up to \$2 per licensee for the monitoring of~~
 459 ~~that profession's licensees under this subsection, which~~
 460 ~~allocations are the exclusive source of funding for contracts~~
 461 ~~under this subsection.~~

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

464 ~~(b) When it receives notice from a vendor that a licensee~~
 465 ~~is not in compliance with continuing education requirements, the~~
 466 ~~department shall send the licensee written notice that~~

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467 ~~disciplinary actions will be taken, together with a description~~
468 ~~of the remedies available to the licensee under the dispute~~
469 ~~resolution process created under paragraph (c). If a licensee~~
470 ~~does not prevail in the dispute resolution process, the~~
471 ~~department:~~

472 ~~1. May impose an administrative fine in the amount of \$500~~
473 ~~against the licensee; however, the department may reduce the~~
474 ~~amount of the fine to \$250 if the licensee comes into compliance~~
475 ~~with the applicable continuing education requirements within 90~~
476 ~~days after imposition of the original fine. All proceeds of~~
477 ~~finances under this subparagraph shall be deposited in the~~
478 ~~appropriate unlicensed activity account under s. 455.2281.~~

479 ~~(2)2. The department may refuse any further renewal of a~~
480 ~~the licensee's license until unless the licensee has paid the~~
481 ~~fine and satisfied all the applicable continuing education~~
482 ~~requirements. This subsection does not preclude the department~~
483 ~~or boards from imposing additional penalties pursuant to the~~
484 ~~applicable practice act or rules adopted pursuant thereto.~~

485 ~~(c) The department is authorized to adopt by rule a~~
486 ~~process for the resolution of disputes between a vendor and a~~
487 ~~continuing education provider, between a vendor and a licensee,~~
488 ~~and between a licensee and a continuing education provider. The~~
489 ~~process shall ensure all parties a fair opportunity to correct~~
490 ~~any erroneous information. If the parties are unable to reach an~~
491 ~~agreement, the department shall determine the resolution of the~~
492 ~~dispute.~~

493 ~~(d) Upon the failure of a vendor to meet its obligations~~
494 ~~under a contract as provided in paragraph (a), the department~~

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495 ~~may suspend the contract and enter into an emergency contract~~
496 ~~under s. 287.057(5).~~

497 ~~(3) Notwithstanding any other provision of law to the~~
498 ~~contrary and regardless of whether the compliance monitoring~~
499 ~~system is privatized, neither the department nor a board may~~
500 ~~impose any sanction other than the sanctions specified in~~
501 ~~paragraph (2)(b) for the failure of a licensee to meet~~
502 ~~continuing education requirements. This subsection does not~~
503 ~~apply to actions under chapter 473.~~

504 ~~(3)(4)~~ The department may ~~shall~~ waive the continuing
505 education monitoring requirements of this section for any
506 profession that demonstrates to the department that the
507 monitoring system places an undue burden on the profession it
508 ~~has a program in place which measures compliance with continuing~~
509 ~~education requirements through statistical sampling techniques~~
510 ~~or other methods and can indicate that at least 95 percent of~~
511 ~~its licensees are in compliance.~~

512 ~~(4)(5)~~ The department may ~~is authorized to~~ adopt rules
513 pursuant to ss. 120.536(1) and 120.54 to implement this section.

514 Section 3. Section 455.2178, Florida Statutes, is amended
515 to read:

516 455.2178 Continuing education providers.--~~If the~~
517 ~~monitoring of compliance with continuing education requirements~~
518 ~~is privatized pursuant to s. 455.2177:~~

519 ~~(1)(a) The department shall notify each approved~~
520 ~~continuing education provider of the name and address of all~~
521 ~~vendors that monitor compliance of licensees under s. 455.2177.~~
522 ~~If the department contracts with more than one vendor under s.~~

523 ~~455.2177, the notice shall specify the professions to be~~
 524 ~~monitored by each vendor.~~

525 ~~(b)~~ Each continuing education provider shall provide to
 526 the department ~~appropriate vendor~~ such information regarding the
 527 continuing education status of licensees as the department
 528 determines is necessary ~~for the vendor~~ to carry out its duties
 529 under s. 455.2177~~(2)~~, in an electronic format ~~a form~~ determined
 530 by the department. After a licensee's completion of a course,
 531 the information must be submitted to the department ~~vendor~~
 532 electronically no later than 30 calendar ~~5 business~~ days
 533 thereafter or prior to the licensee's renewal date, whichever
 534 occurs sooner ~~after a licensee's completion of a course.~~ The
 535 foregoing applies only if the profession has not been granted a
 536 waiver from the monitoring requirements pursuant to s. 455.2177.

537 Upon the request of a licensee, the provider must also furnish
 538 to the department ~~a vendor~~ information regarding courses
 539 completed by the licensee.

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

544 (3) A continuing education provider may not be approved,
 545 and the approval may not be renewed, unless the provider agrees
 546 in writing to provide such cooperation ~~with vendors~~ under this
 547 section and s. 455.2177 as the department deems necessary or
 548 appropriate.

549 (4) The department may fine, suspend, or immediately
 550 revoke approval of any continuing education provider that fails

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551 to comply with its duties under this section. Such fine may not
 552 exceed \$500 per violation. Investigations and prosecutions of a
 553 provider's failure to comply with its duties under this section
 554 shall be conducted pursuant to s. 455.225.

555 (5) For the purpose of determining which persons or
 556 entities must meet the reporting, recordkeeping, and access
 557 provisions of this section, the board of any profession subject
 558 to this section, or the department if there is no board, shall,
 559 by rule, adopt a definition of the term "continuing education
 560 provider" applicable to the profession's continuing education
 561 requirements. The intent of the rule shall be to ensure that all
 562 records and information necessary to carry out the requirements
 563 of this section and s. 455.2177 are maintained and transmitted
 564 accordingly and to minimize disputes as to what person or entity
 565 is responsible for maintaining and reporting such records and
 566 information.

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

569 Section 4. Section 455.2179, Florida Statutes, is amended
 570 to read:

571 455.2179 Continuing education provider and course
 572 approval; cease and desist orders.--

573 (1) If a board, or the department if there is no board,
 574 requires completion of continuing education as a requirement for
 575 renewal of a license, the board, or the department if there is
 576 no board, shall approve providers of the continuing education.
 577 The approval of a continuing education providers and courses
 578 ~~provider~~ must be for a specified period of time, not to exceed 4

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579 | years. An approval that does not include such a time limitation
 580 | may remain in effect pursuant to the applicable practice act or
 581 | the rules promulgated thereto ~~only until July 1, 2001, unless~~
 582 | ~~earlier replaced by an approval that includes such a time~~
 583 | ~~limitation.~~

584 | (2) The board, or the department if there is no, ~~on its~~
 585 | ~~own motion or at the request of a~~ board, shall issue an order
 586 | requiring a person or entity to cease and desist from offering
 587 | any continuing education programs for licensees, and fining,
 588 | suspending, or revoking any approval of the provider previously
 589 | granted by the board, or the department if there is no ~~or a~~
 590 | board, if the board, or the department if there is no ~~or a~~
 591 | board, determines that the person or entity failed to provide
 592 | appropriate continuing education services that conform to
 593 | approved course material. Such fine may not exceed \$500 per
 594 | violation. Investigations and prosecutions of a provider's
 595 | failure to comply with its duties under this section shall be
 596 | conducted pursuant to s. 455.225.

597 | (3) Each board authorized to approve continuing education
 598 | providers, or the department if there is no board, may
 599 | establish, by rule, a fee not to exceed \$250 for anyone seeking
 600 | approval to provide continuing education courses and may
 601 | establish, by rule, a biennial fee not to exceed \$250 for the
 602 | renewal of providership of such courses. The Florida Real Estate
 603 | Commission, authorized under the provisions of chapter 475 to
 604 | approve prelicensure, precertification, and postlicensure
 605 | education providers, may establish, by rule, an application fee
 606 | not to exceed \$250 for anyone seeking approval to offer

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607 prelicensure, precertification, or postlicensure education
608 courses and may establish, by rule, a biennial fee not to exceed
609 \$250 for the renewal of such courses. Such postlicensure
610 education courses shall be subject to the reporting, monitoring,
611 and compliance provisions of this section and ss. 455.2177 and
612 455.2178.

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

616 Section 5. Section 455.2281, Florida Statutes, is amended
617 to read:

618 455.2281 Unlicensed activities; fees; disposition.--In
619 order to protect the public and to ensure a consumer-oriented
620 department, it is the intent of the Legislature that vigorous
621 enforcement of regulation for all professional activities is a
622 state priority. All enforcement costs should be covered by
623 professions regulated by the department. Therefore, the
624 department shall impose, upon initial licensure and each renewal
625 thereof, a special fee of \$5 per licensee. Such fee shall be in
626 addition to all other fees collected from each licensee and
627 shall fund efforts to combat unlicensed activity. Any profession
628 regulated by the department which offers services that are not
629 subject to regulation when provided by an unlicensed person may
630 use funds in its unlicensed activity account to inform the
631 public of such situation. The board with concurrence of the
632 department, or the department when there is no board, may
633 earmark \$5 of the current licensure fee for this purpose, if
634 such board, or profession regulated by the department, is not in

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635 a deficit and has a reasonable cash balance. A board or
 636 profession regulated by the department may authorize the
 637 transfer of funds from the operating fund account to the
 638 unlicensed activity account of that profession if the operating
 639 fund account is not in a deficit and has a reasonable cash
 640 balance. The department shall make direct charges to this fund
 641 by profession and shall not allocate indirect overhead. The
 642 department shall seek board advice regarding enforcement methods
 643 and strategies prior to expenditure of funds; however, the
 644 department may, without board advice, allocate funds to cover
 645 the costs of continuing education compliance monitoring under s.
 646 455.2177. The department shall directly credit, by profession,
 647 revenues received from the department's efforts to enforce
 648 licensure provisions, ~~including revenues received from fines~~
 649 ~~collected under s. 455.2177.~~ The department shall include all
 650 financial and statistical data resulting from unlicensed
 651 activity enforcement and from continuing education compliance
 652 monitoring as separate categories in the quarterly management
 653 report provided for in s. 455.219. The department shall not
 654 charge the account of any profession for the costs incurred on
 655 behalf of any other profession. For an unlicensed activity
 656 account, a balance which remains at the end of a renewal cycle
 657 may, with concurrence of the applicable board and the
 658 department, be transferred to the operating fund account of that
 659 profession.

660 Section 6. Paragraph (b) of subsection (3) of section
 661 481.205, Florida Statutes, is amended to read:

662 481.205 Board of Architecture and Interior Design.--

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663 (3)
664 (b) ~~Notwithstanding the provisions of s. 455.32(13),~~ The
665 board, ~~in lieu of the department,~~ shall contract with a
666 corporation or other business entity pursuant to s. 287.057(3)
667 to provide investigative, legal, prosecutorial, and other
668 services necessary to perform its duties.

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