

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Regulated Industries Committee

BILL: CS/SB 1012

SPONSOR: Regulated Industries Committee and Senator Argenziano

SUBJECT: Professions Regulated by the Department of Business and Professional Regulation

DATE: March 10, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends s. 455.271, F.S., to establish a procedure for reinstatement of professional licenses issued by the Department of Business and Professional Regulation, or any of the professional boards within the department, that have become void because of illness or unusual hardship while making a good-faith effort to comply with the licensure requirements.

This bill provides the boards and department with rulemaking authority to prescribe the procedure for applying for reinstatement, including the setting of the applicable reinstatement fee. In addition the applicant for reinstatement must meet all continuing education requirements prescribed by law, and must be otherwise eligible for renewal of licensure. The regulatory boards for the other professions under the department are under the Division of Professions.¹

The bill exempts certified public accountants.

This bill substantially amends section 455.271 of the Florida Statutes.

II. Present Situation:

The Department of Business and Professional Regulation (department) is created in s. 20.165, F.S., and has ten divisions.² Chapter 455, F.S., provides for the general powers of the department and sets forth the procedural and administrative frame-work for all of the professional boards

¹ There are 19 professional boards within the department.

² Section 20.165, F.S., creates the following divisions in the DBPR: (1) Administration; (2) Alcoholic Beverages and Tobacco; (3) Certified Public Accounting; (4) Florida Land Sales, Condominiums, and Mobile Homes; (5) Hotels and Restaurants; (6) Pari-mutuel Wagering; (7) Professions; (8) Real Estate; (9) Regulation; and (10) Technology, Licensure, and Testing.

housed under the department, specifically the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

A licensee is required to biennially renew an active license, as well as, an inactive license. Section 455.271, F.S., sets forth the procedure and requirements for maintaining a license in an active or inactive status. Failure to renew before the expiration of the term of the license causes the licensee to be in delinquent status. If the licensee further fails to renew the license as active or inactive before the expiration of the licensure cycle, the license becomes null by operation of law. A person whose license has been nullified is required to meet all prerequisites for an initial license if subsequent licensure is desired.

Section 455.271(6), F.S., provides that a delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department when there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license null with any further action by the board or the department. These provisions do not apply to real estate licensees or to harbor pilots.

Currently, s. 473.313, F.S., gives the Board of Accountancy the discretion, notwithstanding the provisions of s. 455.271, F.S., to reinstate the license of a person whose license has become null if the person has made a good-faith effort to comply with licensure renewal provisions but has failed to comply because of illness or unusual hardship. The board is authorized to establish by rule the procedure for applying for reinstatement and an application fee pursuant to exemptions provided in this section.

Chapter 2004-92, L.O.F., provides that the Board of Professional Surveyors and Mappers shall reinstate and the department shall reissue by July 1, 2005, the license of an individual whose license has become null, provided that the following circumstances and qualifications are met:

- the license of the individual was scheduled to be renewed during the biennium period beginning in 2001;
- the license of the individual was in good standing at the time of the beginning of the renewal cycle;
- the individual properly petitioned the department for relief relating to the circumstances under which the license became null; and
- no felony or practice act or unlicensed activity penalties have been imposed upon the individual for violations occurring during the period the license was null.

The individual must submit an application to the board for reinstatement in a manner prescribed by rules of the board and shall pay the appropriate application fees in an amount equal to the fees imposed for current applicants for new licensure. The provisions of the act expire on July 1, 2005.

According to the department, licensees frequently seek to reinstate licenses that have become null due to an illness or unusual hardship, including hurricane related hardships. If a license becomes null, an individual must meet all licensing requirements imposed on an applicant for new licensure. According to the department, neither it or the boards can reinstate a license or consider the circumstances leading to the null status. Some individuals may be unable

to meet the current licensing requirements, e.g., a college degree when the profession was originally licensed, or may have to re-incur education expensive required for licensure.

III. Effect of Proposed Changes:

This bill amends s. 455.271, F.S., to establish a procedure for reinstatement of licenses that have become void because of illness or unusual hardship. The bill gives each board, or the department if there is no board, the discretion to reinstate a license of an individual that it determines has become void because of illness or unusual hardship while making a good-faith effort to comply with the licensure requirements.

The bill provides the boards and department with rulemaking authority to prescribe the procedure for applying for reinstatement. The bill requires that the applicant for renewal must pay a fee in an amount set by rule of the applicable board or the department. In addition the applicant for reinstatement must:

- meet all continuing education requirements prescribed by law;
- pay appropriate licensing fees; and
- must be otherwise eligible for renewal of licensure under ch. 455, F.S.

The bill exempts individuals subject to regulation under ch. 473, F.S., i.e., certified public accountants.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the department, this bill would enable a board, or the department if there is no board, to ensure the uniformity and appropriateness of license reinstatement through the rulemaking process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
