

Bill No. SB 1894

Barcode 092890

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Posey) recommended the following **amendment to amendment** (345568):

Senate Amendment (with title amendment)

On page 4,....., line 5....., delete that line

and insert:

Section 6. Subsections (4) and (7) of section 468.385, Florida Statutes, are amended and present subsection (8) of that section is redesignated as subsection (9), and a new subsection (8) is added to that section, to read:

468.385 Licenses required; qualifications; examination.--

(4) Any person seeking a license as an auctioneer must pass a written examination approved by the board which tests his or her general knowledge of the laws of this state relating to provisions of the Uniform Commercial Code which ~~that~~ are relevant to auctions, the laws of agency, and the provisions of this act. Each applicant must also file a complete set of fingerprints taken by an authorized law enforcement officer. The department must submit the

Bill No. SB 1894

Barcode 092890

1 fingerprints to the Department of Law Enforcement for state
 2 processing and to the Federal Bureau of Investigation for
 3 federal processing. The cost of processing shall be borne by
 4 the applicant.

5 (7)(a) Any auction that is subject to the provisions
 6 of this part must be conducted by an auctioneer who has an
 7 active license or an apprentice who has an active apprentice
 8 auctioneer license and who has received prior written sponsor
 9 consent.

10 (b) ~~A No business may not shall~~ auction or offer to
 11 auction any property in this state unless it is licensed as an
 12 auction business by the board or is exempt from licensure
 13 under this act. ~~Each application for licensure shall include~~
 14 ~~the names of the owner and the business, the business mailing~~
 15 ~~address and location, and any other information which the~~
 16 ~~board may require. The owner of an auction business shall~~
 17 ~~report to the board within 30 days of any change in this~~
 18 ~~required information.~~

19 (8)(a) If an applicant for licensure is a sole
 20 proprietorship, the application must identify the owner. If a
 21 fictitious name is used, the applicant must furnish evidence
 22 of compliance with fictitious-name provisions.

23 (b) If an applicant is a partnership, corporation,
 24 business trust, or other legal entity other than a sole
 25 proprietorship, the application must provide the name of the
 26 partnership and its partners; the name of the corporation and
 27 its officers, directors, and stockholders who are also
 28 officers or directors; the name of the business trust and its
 29 trustees; or the name of any other form of legal entity and
 30 its members. If a fictitious name is used, the applicant must
 31 furnish evidence of compliance with fictitious-name

Bill No. SB 1894

Barcode 092890

1 provisions. If any information that is required to be stated
2 on the application changes, the applicant must, within 45 days
3 after any change, mail the correct information to the
4 department.

5 (c) Any person licensed pursuant to this part whose
6 license has been revoked may not be an owner, partner,
7 officer, director, or trustee of an auction business for 5
8 years following such revocation. The person is also ineligible
9 to reapply for licensure for 5 years following such
10 revocation.

11 (d) An applicant must furnish evidence of financial
12 responsibility, credit history, and business reputation in the
13 auction business. The board shall adopt rules that specify the
14 financial-responsibility grounds upon which the board may deny
15 licensure and that define financial responsibility based upon
16 the applicant's credit history, ability to be bonded, and any
17 history of bankruptcy, insolvency proceedings, or assignment
18 of receivers.

19 (e) The board may deny licensure to an applicant if
20 any owner, partner, officer, director, trustee, or member of
21 the applicant has committed an act or offense in any
22 jurisdiction which would constitute a basis for disciplinary
23 action under s. 468.389.

24 (9)(8) A license issued by the department to an
25 auctioneer, apprentice, or auction business is not
26 transferable.

27 Section 7. Subsection (2) and paragraph (a) of
28 subsection (5) of section 468.609, Florida Statutes, are
29 amended to read:

30 468.609 Administration of this part; standards for
31 certification; additional categories of certification.--

Bill No. SB 1894

Barcode 092890

1 (2) A person may take the examination for
2 certification as a building code inspector or plans examiner
3 pursuant to this part if the person:

4 (a) Is at least 18 years of age.

5 (b) Is of good moral character.

6 (c) Meets eligibility requirements according to one of
7 the following criteria:

8 1. Demonstrates 5 years' combined experience in the
9 field of construction or a related field, building code
10 inspection, or plans review corresponding to the certification
11 category sought;

12 2. Demonstrates a combination of postsecondary
13 education in the field of construction or a related field and
14 experience which totals 4 years, with at least 1 year of such
15 total being experience in construction, building code
16 inspection, or plans review;

17 3. Demonstrates a combination of technical education
18 in the field of construction or a related field and experience
19 which totals 4 years, with at least 1 year of such total being
20 experience in construction, building code inspection, or plans
21 review; ~~or~~

22 4. Currently holds a standard certificate as issued by
23 the board and satisfactorily completes a building code
24 inspector or plans examiner training program of not less than
25 200 hours in the certification category sought. The board
26 shall establish by rule criteria for the development and
27 implementation of the training programs;:-

28 5. Demonstrates a combination of technical education
29 in the field of building code inspection or plans review and
30 experience which totals 2 years, with at least 1 year of such
31 total being experience in construction, building code

Bill No. SB 1894

Barcode 092890

1 inspection, or plans review. The technical education portion
 2 of this requirement shall require proof of satisfactory
 3 completion of a technical education program of not fewer than
 4 400 hours in the chosen category of building code inspection
 5 or plans review in the certification category sought with not
 6 fewer than 20 hours of the technical education program
 7 covering ethics and professional standards. The board shall
 8 coordinate with the Building Officials Association of Florida,
 9 Inc., to establish by rule the development and implementation
 10 of the technical education programs; or

11 6. Has completed, at a minimum, an associate degree
 12 program in Construction Management from an accredited
 13 institution with a major in Building Code Administration.

14 ~~(d) After the Building Code Training Program is~~
 15 ~~established under s. 553.841, demonstrates successful~~
 16 ~~completion of the core curriculum approved by the Florida~~
 17 ~~Building Commission, appropriate to the licensing category~~
 18 ~~sought.~~

19 (5)(a) To obtain a standard certificate, an individual
 20 must pass an examination approved by the board which
 21 demonstrates that the applicant has fundamental knowledge of
 22 the state laws and codes relating to the construction of
 23 buildings for which the applicant has building code
 24 administration, plans examination, or building code inspection
 25 responsibilities. It is the intent of the Legislature that the
 26 examination approved for certification pursuant to this part
 27 be substantially equivalent to the examinations administered
 28 by the International Code Council ~~Southern Building Code~~
 29 ~~Congress International and the Council of American Building~~
 30 ~~Officials.~~

31 Section 8. Subsection (4) is added to section 468.617,

Bill No. SB 1894

Barcode 092890

1 Florida Statutes, to read:

2 468.617 Joint building code inspection department;
3 other arrangements.--

4 (4) Nothing in this part shall prohibit any building
5 code inspector, plans examiner, or building code administrator
6 holding a limited certificate who is employed by a
7 jurisdiction within a statutorily defined small county to
8 provide building code inspection, plans review, or building
9 code administration services to another jurisdiction within a
10 statutorily defined small county.

11 Section 9. Subsection (10) is added to section
12 468.619, Florida Statutes, to read:

13 468.619 Building code enforcement officials' bill of
14 rights.--

15 (10) This bill of rights applies to disciplinary
16 investigations and proceedings against licenses issued under
17 this part and disciplinary investigations and proceedings
18 relating to the official duties of an enforcement official.
19 This bill of rights does not apply to disciplinary
20 investigations and proceedings against other licenses that the
21 enforcement official holds or disciplinary investigations and
22 proceedings unrelated to the enforcement official's official
23 duties.

24 Section 10. Subsection (1) of section 468.621, Florida
25 Statutes, is amended to read:

26 468.621 Disciplinary proceedings.--

27 (1) The following acts constitute grounds for which
28 the disciplinary actions in subsection (2) may be taken:

29 (a) Violating or failing to comply with any provision
30 of this part, or a valid rule or lawful order of the board or
31 department pursuant thereto.

Bill No. SB 1894

Barcode 092890

1 (b) Obtaining certification through fraud, deceit, or
2 perjury.

3 (c) Knowingly assisting any person practicing contrary
4 to the provisions of:

5 1. This part; or

6 2. The building code adopted by the enforcement
7 authority of that person.

8 (d) Having been convicted of a felony against this
9 state or the United States, or of a felony in another state
10 that would have been a felony had it been committed in this
11 state.

12 (e) Having been convicted of a crime in any
13 jurisdiction which directly relates to the practice of
14 building code administration or inspection.

15 (f) Making or filing a report or record that ~~which~~ the
16 certificateholder knew ~~knows~~ to be false, or knowingly
17 inducing another to file a false report or record, or
18 knowingly failing to file a report or record required by state
19 or local law, or knowingly impeding or obstructing such
20 filing, or knowingly inducing another person to impede or
21 obstruct such filing.

22 (g) Failing to properly enforce applicable building
23 codes or permit requirements within this state which the
24 certificateholder knew were applicable, or ~~by~~ committing
25 willful misconduct, gross negligence, gross misconduct,
26 repeated negligence, or negligence resulting in a significant
27 danger to life or property.

28 (h) Issuing a building permit to a contractor, or any
29 person representing himself or herself as a contractor,
30 without obtaining the contractor's certificate or registration
31 number, where ~~such~~ a certificate or registration is required.

Bill No. SB 1894

Barcode 092890

1 (i) Failing to lawfully execute the duties and
2 responsibilities specified in this part and ss. 553.73,
3 553.781, 553.79, and 553.791.

4 (j) Performing building code inspection services under
5 s. 553.791 without satisfying the insurance requirements of
6 that section.

7 (k) Obstructing an investigation or providing or
8 inducing another to provide forged documents, false forensic
9 evidence, or false testimony to a local or state board or
10 member thereof or to a licensing investigator.

11 (l) Accepting labor, services, or materials at no
12 charge or at a noncompetitive rate from any person who
13 performs work that is under the enforcement authority of the
14 enforcement official who is not an immediate family member of
15 the enforcement official. "Immediate family member" includes a
16 spouse, child, parent, sibling, grandparent, aunt, uncle, or
17 first cousin of the person or the person's spouse, or any
18 person who resides in the primary residence of the enforcement
19 official.

20 Section 11. Subsection (2) of section 489.113, Florida
21 Statutes, is amended to read:

22 489.113 Qualifications for practice; restrictions.--

23 (2) No person who is not certified or registered shall
24 engage in the business of contracting in this state. However,
25 for purposes of complying with the provisions of this chapter,
26 a person who is not certified or registered may perform
27 construction work under the supervision of a person who is
28 certified or registered, or under the supervision of the
29 property owner who is acting as his or her own contractor
30 pursuant to s. 489.103(7), if ~~provided that~~ the work is within
31 the scope of the supervisor's license and ~~provided that~~ the

Bill No. SB 1894

Barcode 092890

1 person being supervised is not engaged in construction work
 2 that ~~which~~ would require a license as a contractor under any
 3 of the categories listed in s. 489.105(3)(d)-(o). This
 4 subsection does not affect the application of any local
 5 construction licensing ordinances. To enforce this
 6 subsection:

7 (a) The department shall issue a cease and desist
 8 order to prohibit any person from engaging in the business of
 9 contracting who does not hold the required certification or
 10 registration for the work being performed under this part.
 11 For the purpose of enforcing a cease and desist order, the
 12 department may file a proceeding in the name of the state
 13 seeking issuance of an injunction or a writ of mandamus
 14 against any person who violates any provision of such order.

15 (b) A county, municipality, or local licensing board
 16 created by special act may issue a cease and desist order to
 17 prohibit any person from engaging in the business of
 18 contracting who does not hold the required certification or
 19 registration for the work being performed under this part.

20 Section 12. Paragraph (e) of subsection (4) of section
 21 489.117, Florida Statutes, is amended to read:

22 489.117 Registration; specialty contractors.--

23 (4)

24 (e) Any person who is not required to obtain
 25 registration or certification pursuant to s. 489.105(3)(d)-(o)
 26 may perform specialty contracting services for the
 27 construction, remodeling, repair, or improvement of
 28 single-family residences, including a townhouse as defined in
 29 the Florida Building Code, without obtaining a local
 30 professional license if such person is under the supervision
 31 of a certified or registered general, building, or residential

Bill No. SB 1894

Barcode 092890

1 contractor, or is under the supervision of the property owner
 2 who is acting as his or her own contractor pursuant to s.
 3 489.103(7). As used in this paragraph, supervision shall not
 4 be deemed to require the existence of a direct contract
 5 between the certified or registered general, building, or
 6 residential contractor and the person performing specialty
 7 contracting services.

8 Section 13. Subsections (5) and (6) of section
 9 468.627, Florida Statutes, are amended to read:

10 468.627 Application; examination; renewal; fees.--

11 (5) The certificateholder shall provide proof, in a
 12 form established by board rule, that the certificateholder has
 13 completed at least 14 classroom hours of at least 50 minutes
 14 each of continuing education courses during each biennium
 15 since the issuance or renewal of the certificate, including
 16 the specialized or advanced coursework approved by the Florida
 17 Building Commission, as part of the Building Code Training
 18 Program established pursuant to s. 553.841, appropriate to the
 19 licensing category sought. A minimum of 2 of the required 14
 20 classroom hours shall be on ethics relating to professional
 21 standards of practice, duties, and responsibilities of the
 22 certificateholder. The board shall by rule establish criteria
 23 for approval of continuing education courses and providers,
 24 and may by rule establish criteria for accepting alternative
 25 nonclassroom continuing education on an hour-for-hour basis.

26 (6) Each certificateholder shall provide to the board
 27 proof of completion of the core curriculum courses, ~~or passing~~
 28 ~~the equivalency test~~ of the Building Code Training Program
 29 established by s. 553.841, within 2 years after commencement
 30 of the program. Continuing education hours spent taking such
 31 core curriculum courses shall count toward the number required

Bill No. SB 1894

Barcode 092890

1 for license renewal. ~~A licensee who passes the equivalency~~
2 ~~test in lieu of taking the core curriculum courses shall~~
3 ~~receive full credit for core curriculum course hours.~~

4 Section 14. Subsection (6) of section 489.115, Florida
5 Statutes, is amended and renumbered as subsection (7), present
6 subsection (7) is renumbered as subsection (8), and a new
7 subsection (6) is added to that section, to read:

8 489.115 Certification and registration; endorsement;
9 reciprocity; renewals; continuing education.--

10 (6) An applicant for initial issuance of a certificate
11 or registration shall submit to a criminal history records
12 check to determine moral character. If the applicant has been
13 convicted of a felony, the board may deny licensure to the
14 applicant based upon the severity of the crime, the
15 relationship of the crime to contracting, or the potential for
16 public harm. The board shall also, in denying or approving
17 licensure, consider the length of time since the commission of
18 the crime and the rehabilitation of the applicant. The board
19 may not deny licensure to an applicant based solely upon a
20 felony conviction or the applicant's failure to provide proof
21 of restoration of civil rights.

22 ~~(7)(6)~~ An initial applicant shall, along with the
23 application, and a certificateholder or registrant shall, upon
24 requesting a change of status, submit to the board a credit
25 report from a nationally recognized credit agency that
26 reflects the financial responsibility of the applicant or
27 certificateholder or registrant. The credit report required
28 for the initial applicant shall be considered the minimum
29 evidence necessary to satisfy the board that he or she is
30 financially responsible to be certified, has the necessary
31 credit and business reputation to engage in contracting in the

Bill No. SB 1894

Barcode 092890

1 state, and has the minimum financial stability necessary to
 2 avoid the problem of financial mismanagement or misconduct.
 3 The board shall, by rule, adopt guidelines for determination
 4 of financial stability, which may include minimum requirements
 5 for net worth, cash, and bonding for Division I
 6 certificateholders of no more than \$20,000 and for Division II
 7 certificateholders of no more than \$10,000. Fifty percent of
 8 the financial requirements may be met by completing a 14-hour
 9 financial responsibility course approved by the board.

10 Section 15. This act shall take effect July 1, 2006.

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12

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 On page ...4....., lines.14-26....., delete lines

16

17 and insert:

18 An act relating to professional regulation by
 19 the Department of Business and Professional
 20 Regulation; amending s. 489.503, F.S.;
 21 exempting nationally recognized testing
 22 laboratories from certain alarm system
 23 contracting provisions; amending s. 489.505,
 24 F.S.; defining the term "nationally recognized
 25 testing laboratory"; amending ss. 489.128 and
 26 489.532, F.S.; providing that individuals
 27 performing certain construction contracting or
 28 electrical and alarm system contracting work
 29 are not considered unlicensed for purposes of
 30 contract enforceability; providing for
 31 retroactive application; amending s. 468.385,

Bill No. SB 1894

Barcode 092890

1 F.S.; requiring an applicant for an auctioneer
2 license to submit fingerprints with the
3 application; amending s. 468.609, F.S.;
4 providing eligibility requirements for a person
5 to take the examination for certification as a
6 building code inspector or plans examiner;
7 revising a reference to the organization
8 administering certain examinations; amending s.
9 468.617, F.S.; authorizing certain limited
10 certificateholders to provide services to
11 specified jurisdictions; amending s. 468.619,
12 F.S.; providing for the application of the
13 building code enforcement officials' bill of
14 rights to certain disciplinary investigations
15 and proceedings; amending s. 468.621, F.S.;
16 providing for disciplinary proceedings for
17 violations involving failure to follow building
18 code or permit requirements, obstructing an
19 investigation, and accepting services at a
20 noncompetitive rate from any person whose work
21 is under the enforcement authority of the
22 official, under certain circumstances; amending
23 s. 468.627, F.S.; providing requirements for
24 continuing education in ethics; removing
25 provisions relating to an option of taking an
26 equivalency test in lieu of taking core
27 curriculum classes; amending ss. 489.113 and
28 489.117, F.S.; exempting certain contractors
29 and specialty contractors who are working under
30 the supervision of a property owner who is
31 acting as his or her own contractor from

Bill No. SB 1894

Barcode 092890

1 certification or registration requirements;
2 amending s. 489.115, F.S.; requiring applicants
3 for initial issuance of a certificate or
4 registration as a contractor to submit to
5 criminal history records checks; authorizing
6 the board to deny licensure to certain
7 applicants; specifying matters the board must
8 consider concerning licensure; prohibiting the
9 denial of licensure based solely on a felony
10 conviction or the status of the civil rights of
11 the applicant; specifying that guidelines for
12 determining financial stability may include
13 minimum requirements for net worth, cash, and
14 bonding; providing that a portion of financial
15 requirements may be met by completing specified
16 coursework; providing an effective date.

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