

CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to professional regulation by the
7 Department of Business and Professional Regulation;
8 amending s. 468.385, F.S.; providing for the submittal and
9 processing of fingerprints for background checks of
10 applicants for licensure as an auctioneer; requiring the
11 applicant to bear the cost of processing fingerprints and
12 conducting the background check; amending s. 468.603,
13 F.S.; providing definitions; amending s. 468.609, F.S.;
14 providing eligibility requirements for a person to take
15 the examination for certification as a building code
16 inspector or plans examiner; revising a reference to the
17 organization administering certain examinations; amending
18 s. 468.617, F.S.; authorizing certain limited
19 certificateholders to provide services to specified
20 jurisdictions; amending s. 468.619, F.S.; providing for
21 the application of the building code enforcement
22 officials' bill of rights to certain disciplinary
23 investigations and proceedings; amending s. 468.621, F.S.;

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24 providing for disciplinary proceedings for violations
25 involving failure to follow building code, licensing, or
26 permit requirements, obstructing an investigation, and
27 accepting services at a noncompetitive rate from any
28 person whose work may be under the enforcement authority
29 of the official, under certain circumstances; amending s.
30 468.627, F.S.; providing requirements for continuing
31 education in ethics; removing provisions relating to an
32 option of taking an equivalency test in lieu of taking
33 core curriculum classes; amending s. 489.105, F.S.;

34 providing definitions; amending s. 489.115, F.S.;

35 requiring applicants for initial issuance of a certificate
36 or registration as a contractor to submit to criminal
37 history records checks; requiring certain applicants for a
38 certificate or registration to provide documentation
39 regarding the status of civil rights; authorizing the
40 board to deny licensure to certain applicants; specifying
41 that guidelines for determining financial stability may
42 include minimum requirements for net worth, cash, and
43 bonding; authorizing a portion of financial requirements
44 to be met by completing specified coursework; amending s.
45 489.127, F.S.; providing penalties when a licensed
46 contractor performs unlicensed activity, hires a
47 subcontractor to perform unlicensed activity, or fails to
48 obtain required permits; revising a provision that
49 prohibits local jurisdictions from exercising disciplinary
50 authority against certificateholders; providing an
51 effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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WHEREAS, the state licenses and regulates the construction industry for the benefit of its citizens in order to protect their health, safety, and welfare, and

WHEREAS, it is critical to the health, safety, and welfare of the public that the laws enacted by the Legislature relating to construction permitting enforcement of the Florida Building Code and licensing of the industry be implemented and enforced, and

WHEREAS, it is critical that the public be able to place their trust in the public officials who are charged with enforcement of those laws and codes, and

WHEREAS, in order for enforcement officials, licensing investigators, local and state regulatory boards, and their supporting legal staff to perform licensing and disciplinary functions, they must have the enabling legislation and authority to do so, NOW, THEREFORE,

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

Section 1. Subsection (4) of section 468.385, Florida Statutes, is amended to read:

468.385 Licenses required; qualifications; examination.--

(4) (a) 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 that are relevant to auctions, the laws of agency, and the provisions of this act.

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80 (b) Any person seeking a license as an auctioneer shall
81 file a complete set of fingerprints for a criminal history
82 record check. Fingerprints shall be taken in a manner approved
83 by the board and shall be submitted electronically to the
84 Department of Law Enforcement for state processing. The
85 Department of Law Enforcement shall forward the fingerprints to
86 the Federal Bureau of Investigation for national processing. The
87 results of the criminal history record check shall be returned
88 to the board for purposes of screening. The cost of processing
89 fingerprints and conducting a criminal history record check
90 shall be borne by the applicant for licensure.

91 Section 2. Subsections (9), (10), and (11) are added to
92 section 468.603, Florida Statutes, to read:

93 468.603 Definitions.--As used in this part:

94 (9) "Willful" means the mental state in which a person
95 commits an act knowing that, or showing reckless disregard for
96 whether, the act is prohibited under this part or does not
97 commit an act while knowing that, or showing reckless disregard
98 for whether, the act is required under this part. A person knows
99 that an act is prohibited or required if the person is aware of
100 the provision of this part that prohibits or requires the act,
101 understands the meaning of that provision, and performs the act
102 that is prohibited or fails to perform the act that is required.
103 "Willful" does not include specific intent to defraud.

104 (10) "Knowing" or "knowingly" means the mental state in
105 which a person, with respect to information, has actual
106 knowledge of the information, acts in deliberate ignorance of
107 the truth or falsity of the information, or acts in reckless

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108 | disregard of the information. "Knowing" or "knowingly" does not
 109 | include specific intent to defraud.

110 | (11) "Reckless disregard" means the mental state in which
 111 | a person commits an act despite the act's being prohibited or
 112 | required under this part and wholly disregards the law without
 113 | making any reasonable effort to determine whether the act would
 114 | constitute a violation of this part. "Reckless disregard" does
 115 | not include specific intent to defraud.

116 | Section 3. Subsection (2) and paragraph (a) of subsection
 117 | (5) of section 468.609, Florida Statutes, are amended to read:

118 | 468.609 Administration of this part; standards for
 119 | certification; additional categories of certification.--

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

123 | (a) Is at least 18 years of age.

124 | (b) Is of good moral character.

125 | (c) Meets eligibility requirements according to one of the
 126 | following criteria:

127 | 1. Demonstrates 5 years' combined experience in the field
 128 | of construction or a related field, building code inspection, or
 129 | plans review corresponding to the certification category sought;

130 | 2. Demonstrates a combination of postsecondary education
 131 | in the field of construction or a related field and experience
 132 | which totals 4 years, with at least 1 year of such total being
 133 | experience in construction, building code inspection, or plans
 134 | review;

135 | 3. Demonstrates a combination of technical education in

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136 the field of construction or a related field and experience
137 which totals 4 years, with at least 1 year of such total being
138 experience in construction, building code inspection, or plans
139 review; ~~or~~

140 4. Currently holds a standard certificate as issued by the
141 board and satisfactorily completes a building code inspector or
142 plans examiner training program of not less than 200 hours in
143 the certification category sought. The board shall establish by
144 rule criteria for the development and implementation of the
145 training programs; -

146 5. Demonstrates a combination of technical education in
147 the field of building code inspection or plans review and
148 experience which totals 2 years, with at least 1 year of such
149 total being experience in construction, building code
150 inspection, or plans review. The technical education portion of
151 this requirement shall require proof of satisfactory completion
152 of a technical education program of not fewer than 400 hours in
153 the chosen category of building code inspection or plans review
154 in the certification category sought with not fewer than 20
155 hours of the technical education program covering ethics and
156 professional standards. The board shall coordinate with the
157 Building Officials Association of Florida, Inc., to establish by
158 rule the development and implementation of the technical
159 education programs; or

160 6. Has completed, at a minimum, an associate degree
161 program in Construction Management from an accredited
162 institution with a major in Building Code Administration.

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163 ~~(d) After the Building Code Training Program is~~
164 ~~established under s. 553.841, demonstrates successful completion~~
165 ~~of the core curriculum approved by the Florida Building~~
166 ~~Commission, appropriate to the licensing category sought.~~

167 (5) (a) To obtain a standard certificate, an individual
168 must pass an examination approved by the board which
169 demonstrates that the applicant has fundamental knowledge of the
170 state laws and codes relating to the construction of buildings
171 for which the applicant has building code administration, plans
172 examination, or building code inspection responsibilities. It is
173 the intent of the Legislature that the examination approved for
174 certification pursuant to this part be substantially equivalent
175 to the examinations administered by the International Code
176 Council Southern Building Code Congress International and the
177 Council of American Building Officials.

178 Section 4. Subsection (4) is added to section 468.617,
179 Florida Statutes, to read:

180 468.617 Joint building code inspection department; other
181 arrangements.--

182 (4) Nothing in this part shall prohibit any building code
183 inspector, plans examiner, or building code administrator
184 holding a limited certificate who is employed by a jurisdiction
185 within a statutorily defined small county to provide building
186 code inspection, plans review, or building code administration
187 services to another jurisdiction within a statutorily defined
188 small county.

189 Section 5. Subsection (10) is added to section 468.619,
190 Florida Statutes, to read:

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191 468.619 Building code enforcement officials' bill of
192 rights.--

193 (10) This bill of rights applies to disciplinary
194 investigations and proceedings against licenses issued under
195 this part and disciplinary investigations and proceedings
196 relating to the official duties of an enforcement official. This
197 bill of rights does not apply to disciplinary investigations and
198 proceedings against other licenses that the enforcement official
199 holds or disciplinary investigations and proceedings unrelated
200 to the enforcement official's official duties.

201 Section 6. Subsection (1) of section 468.621, Florida
202 Statutes, is amended to read:

203 468.621 Disciplinary proceedings.--

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

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

209 (b) Obtaining certification through fraud, deceit, or
210 perjury.

211 (c) Knowingly assisting any person practicing contrary to
212 the provisions of:

213 1. This part; or

214 2. The building code adopted by the enforcement authority
215 of that person.

216 (d) Having been convicted of a felony against this state
217 or the United States, or of a felony in another state that would
218 have been a felony had it been committed in this state.

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

222 (f) Making or filing a report or record that ~~which~~ the
223 certificateholder knew ~~knows~~ to be false, or knowingly inducing
224 another to file a false report or record, or knowingly failing
225 to file a report or record required by state or local law, or
226 knowingly impeding or obstructing such filing, or knowingly
227 inducing another person to impede or obstruct such filing.

228 (g) Failing to properly enforce applicable building codes,
229 licensing, or permit requirements that the certificateholder
230 knew were applicable, or ~~by~~ committing willful misconduct, gross
231 negligence, gross misconduct, repeated negligence, or negligence
232 resulting in a significant danger to life or property,
233 regardless of whether the violation occurs within the employment
234 jurisdiction of the enforcement official or occurs in connection
235 with the employment of the enforcement official or outside the
236 scope of the employment of the enforcement official.

237 (h) Issuing a building permit to a contractor, or any
238 person representing himself or herself as a contractor, without
239 obtaining the contractor's certificate or registration number,
240 where ~~such~~ a certificate or registration is required.

241 (i) Failing to lawfully execute the duties and
242 responsibilities specified in this part and ss. 553.73, 553.781,
243 553.79, and 553.791.

244 (j) Performing building code inspection services under s.
245 553.791 without satisfying the insurance requirements of that
246 section.

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247 (k) Obstructing an investigation or providing or inducing
248 another to provide forged documents, false forensic evidence, or
249 false testimony to a local or state board or member thereof or
250 to a licensing investigator.

251 (l) Accepting labor, services, or materials for free or at
252 a noncompetitive rate from any person who performs work that may
253 be under the enforcement authority of the enforcement official
254 who is not an immediate family member of the enforcement
255 official. "Immediate family member" includes a spouse, child,
256 parent, sibling, grandparent, aunt, uncle, or first cousin of
257 the person or the person's spouse, or any person who resides in
258 the home of the enforcement official.

259 Section 7. Subsections (5) and (6) of section 468.627,
260 Florida Statutes, are amended to read:

261 468.627 Application; examination; renewal; fees.--

262 (5) The certificateholder shall provide proof, in a form
263 established by board rule, that the certificateholder has
264 completed at least 14 classroom hours of at least 50 minutes
265 each of continuing education courses during each biennium since
266 the issuance or renewal of the certificate, including the
267 specialized or advanced coursework approved by the Florida
268 Building Commission, as part of the Building Code Training
269 Program established pursuant to s. 553.841, appropriate to the
270 licensing category sought. A minimum of 2 of the required 14
271 classroom hours shall be on ethics relating to professional
272 standards of practice, duties, and responsibilities of the
273 certificateholder. The board shall by rule establish criteria
274 for approval of continuing education courses and providers, and

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275 | may by rule establish criteria for accepting alternative
276 | nonclassroom continuing education on an hour-for-hour basis.

277 | (6) Each certificateholder shall provide to the board
278 | proof of completion of the core curriculum courses, ~~or passing~~
279 | ~~the equivalency test~~ of the Building Code Training Program
280 | established by s. 553.841~~7~~, within 2 years after commencement of
281 | the program. Continuing education hours spent taking such core
282 | curriculum courses shall count toward the number required for
283 | license renewal. ~~A licensee who passes the equivalency test in~~
284 | ~~lieu of taking the core curriculum courses shall receive full~~
285 | ~~credit for core curriculum course hours.~~

286 | Section 8. Subsections (20), (21), and (22) are added to
287 | section 489.105, Florida Statutes, to read:

288 | 489.105 Definitions.--As used in this part:

289 | (20) "Willful" means the mental state in which a person
290 | commits an act knowing that, or showing reckless disregard for
291 | whether, the act is prohibited under this part or does not
292 | commit an act while knowing that, or showing reckless disregard
293 | for whether, the act is required under this part. A person knows
294 | that an act is prohibited or required if the person is aware of
295 | the provision of this part that prohibits or requires the act,
296 | understands the meaning of that provision, and performs the act
297 | that is prohibited or fails to perform the act that is required.
298 | "Willful" does not include specific intent to defraud.

299 | (21) "Knowing" or "knowingly" means the mental state in
300 | which a person, with respect to information, has actual
301 | knowledge of the information, acts in deliberate ignorance of
302 | the truth or falsity of the information, or acts in reckless

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303 disregard of the information. "Knowing" or "knowingly" does not
304 include specific intent to defraud.

305 (22) "Reckless disregard" means the mental state in which
306 a person commits an act despite the act's being prohibited or
307 required under this part and wholly disregards the law without
308 making any reasonable effort to determine whether the act would
309 constitute a violation of this part. "Reckless disregard" does
310 not include specific intent to defraud.

311 Section 9. Subsection (6) of section 489.115, Florida
312 Statutes, is amended and renumbered as subsection (7), present
313 subsection (7) is renumbered as subsection (8), and a new
314 subsection (6) is added to that section, to read:

315 489.115 Certification and registration; endorsement;
316 reciprocity; renewals; continuing education.--

317 (6) An applicant for initial issuance of a certificate or
318 registration shall submit to a criminal history records check to
319 determine moral character. If the applicant has been convicted
320 of a felony, he or she shall provide documentation regarding the
321 status of his or her civil rights. The board may deny licensure
322 to an applicant who does not present proof of restoration of
323 civil rights after conviction of a felony.

324 (7)~~(6)~~ An initial applicant shall, along with the
325 application, and a certificateholder or registrant shall, upon
326 requesting a change of status, submit to the board a credit
327 report from a nationally recognized credit agency that reflects
328 the financial responsibility of the applicant or
329 certificateholder or registrant. The credit report required for
330 the initial applicant shall be considered the minimum evidence

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331 necessary to satisfy the board that he or she is financially
332 responsible to be certified, has the necessary credit and
333 business reputation to engage in contracting in the state, and
334 has the minimum financial stability necessary to avoid the
335 problem of financial mismanagement or misconduct. The board
336 shall, by rule, adopt guidelines for determination of financial
337 stability, which may include minimum requirements for net worth,
338 cash, and bonding for Division I certificateholders of no more
339 than \$20,000 and for Division II certificateholders of no more
340 than \$10,000. Fifty percent of the financial requirements may be
341 met by completing a 14-hour financial responsibility course
342 approved by the board.

343 Section 10. Present paragraph (d) of subsection (4) of
344 section 489.127, Florida Statutes, is redesignated as paragraph
345 (e), a new paragraph (d) is added to that subsection, and
346 paragraph (o) of subsection (5) of that section is amended, to
347 read:

348 489.127 Prohibitions; penalties.--

349 (4)

350 (d) A certified or registered contractor or a contractor
351 authorized by a local construction licensing board may not
352 perform work for which he or she is not properly licensed,
353 subcontract to unlicensed persons to perform work that requires
354 a license, or fail to obtain required permits.

355 (5) Each county or municipality may, at its option,
356 designate one or more of its code enforcement officers, as
357 defined in chapter 162, to enforce, as set out in this
358 subsection, the provisions of subsection (1) and s. 489.132(1)

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359 | against persons who engage in activity for which a county or
360 | municipal certificate of competency or license or state
361 | certification or registration is required.

362 | (o) ~~Nothing in~~ This subsection does not ~~shall be construed~~
363 | ~~to~~ authorize local jurisdictions to exercise disciplinary
364 | authority, other than to issue civil citations, which are not
365 | considered discipline, or procedures established in this
366 | ~~subsection~~ against an individual holding a proper valid
367 | certificate issued under ~~pursuant to~~ this part.

368 | Section 11. This act shall take effect July 1, 2006.