

CHAMBER ACTION

1 The Transportation & Economic Development Appropriations
2 Committee recommends the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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24 investigations and proceedings; amending s. 468.621, F.S.;

25 providing for disciplinary proceedings for violations

26 involving failure to follow building code, licensing, or

27 permit requirements, obstructing an investigation, and

28 accepting services at a noncompetitive rate from any

29 person whose work may be under the enforcement authority

30 of the official, under certain circumstances; amending s.

31 468.627, F.S.; providing requirements for continuing

32 education in ethics; removing provisions relating to an

33 option of taking an equivalency test in lieu of taking

34 core curriculum classes; amending s. 489.105, F.S.;

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

36 requiring applicants for initial issuance of a certificate

37 or registration as a contractor to submit to criminal

38 history records checks; requiring certain applicants for a

39 certificate or registration to provide documentation

40 regarding the status of civil rights; authorizing the

41 board to deny licensure to certain applicants; specifying

42 that guidelines for determining financial stability may

43 include minimum requirements for net worth, cash, and

44 bonding; authorizing a portion of financial requirements

45 to be met by completing specified coursework; amending s.

46 489.127, F.S.; revising a provision that prohibits local

47 jurisdictions from exercising disciplinary authority

48 against certificateholders; providing an effective date.

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

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

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

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

66

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

68

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

71 468.385 Licenses required; qualifications; examination.--

72 (4) (a) Any person seeking a license as an auctioneer must
73 pass a written examination approved by the board which tests his
74 or her general knowledge of the laws of this state relating to
75 provisions of the Uniform Commercial Code that are relevant to
76 auctions, the laws of agency, and the provisions of this act.

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

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

90 468.603 Definitions.--As used in this part:

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

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

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

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

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

115 468.609 Administration of this part; standards for
 116 certification; additional categories of certification.--

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

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

121 (b) Is of good moral character.

122 (c) Meets eligibility requirements according to one of the
 123 following criteria:

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

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

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132 3. Demonstrates a combination of technical education in
133 the field of construction or a related field and experience
134 which totals 4 years, with at least 1 year of such total being
135 experience in construction, building code inspection, or plans
136 review; ~~or~~

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

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

157 6. Has completed, at a minimum, an associate degree
158 program in Construction Management from an accredited
159 institution with a major in Building Code Administration.

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

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

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

177 468.617 Joint building code inspection department; other
178 arrangements.--

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

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

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188 468.619 Building code enforcement officials' bill of
189 rights.--

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

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

200 468.621 Disciplinary proceedings.--

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

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

206 (b) Obtaining certification through fraud, deceit, or
207 perjury.

208 (c) Knowingly assisting any person practicing contrary to
209 the provisions of:

210 1. This part; or

211 2. The building code adopted by the enforcement authority
212 of that person.

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

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

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

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

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

238 (i) Failing to lawfully execute the duties and
239 responsibilities specified in this part and ss. 553.73, 553.781,
240 553.79, and 553.791.

241 (j) Performing building code inspection services under s.
242 553.791 without satisfying the insurance requirements of that
243 section.

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

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

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

258 468.627 Application; examination; renewal; fees.--

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

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

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

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

285 | 489.105 Definitions.--As used in this part:

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

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

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

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

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

312 489.115 Certification and registration; endorsement;
313 reciprocity; renewals; continuing education.--

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

321 (7)~~(6)~~ An initial applicant shall, along with the
322 application, and a certificateholder or registrant shall, upon
323 requesting a change of status, submit to the board a credit
324 report from a nationally recognized credit agency that reflects
325 the financial responsibility of the applicant or
326 certificateholder or registrant. The credit report required for
327 the initial applicant shall be considered the minimum evidence

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

340 Section 10. Paragraph (o) of subsection (5) of section
341 489.127, Florida Statutes, is amended to read:

342 489.127 Prohibitions; penalties.--

343 (5) Each county or municipality may, at its option,
344 designate one or more of its code enforcement officers, as
345 defined in chapter 162, to enforce, as set out in this
346 subsection, the provisions of subsection (1) and s. 489.132(1)
347 against persons who engage in activity for which a county or
348 municipal certificate of competency or license or state
349 certification or registration is required.

350 (o) ~~Nothing in~~ This subsection does not ~~shall be construed~~
351 ~~to~~ authorize local jurisdictions to exercise disciplinary
352 authority, other than to issue civil citations, which are not
353 considered discipline, or procedures established in this
354 ~~subsection~~ against an individual holding a proper valid
355 certificate issued under ~~pursuant to~~ this part.

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