

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1413

Regulation of Professions

SPONSOR(S): Williams

TIED BILLS:

IDEN./SIM. BILLS: SB 2598

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Livingston	Cooper
2)	General Government Policy Council			
3)	Government Operations Appropriations Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The bill contains numerous modifications relating to several programs under the Department of Business and Professional Regulation (DBPR). The bill:

- amends provisions relating to continuing education requirements, to require the completion of no more than one renewal cycle of continuing education requirements by an inactive licensee seeking to regain active status;
- specifies three license renewal life cycles to be for a quadrennial (4 year) period rather than a biennial period. This change would apply to requirements for approval of CE providers, barbers and cosmetologists CE training on HIV/AIDS, and reactivating an inactive license;
- allows a nonresident who has been licensed in good standing for at least 2 years in another state to qualify for licensure in this state if nonresident applicant completes a course on Florida laws and rules and passes the resulting examination (this allowance applies to eleven categories professional activities operating under the authority of the Division of Professions of the DBPR);
- allows the Electrical Contractors Licensing Board to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds; and
- allows an applicant for the examination for a construction license to take a prelicensure course approved by the construction industry licensing board to be substituted for the work experience requirements..

At the time of publication of this analysis, the DBPR has been unable to provide specific fiscal data relating to the impact of the provisions of the bill.

The bill is designed to reduce activities of the DBPR that have been identified as unnecessary regulatory burdens to assist practitioners who are regulated by the DBPR. A reduction in expenditures by the DBPR could be anticipated.

The bill creates a new fee of \$50 for the reactivation of a license that has expired and the former practitioner requests that the license be reactivated by the DBPR.

Effective date - upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Section 20.165, F.S., establishes the organizational structure of the DBPR and includes the Division of Professions. It also establishes other divisions to include the divisions of: Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Florida Land Sales, Condominiums, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Real Estate; Regulation; and Technology, Licensure, and Testing. This section also establishes the authority and structure of the various boards within the DBPR. The Florida State Boxing Commission is also housed within the DBPR pursuant to s. 548.003, F.S.

The Division of Professions is responsible for the following¹

Architecture and Interior Design
Asbestos
Athlete Agents
Auctioneers
Barbers
Boxing Commission
Building Code Administrators and Inspectors
Community Association Managers
Construction Industry
Cosmetology
Electrical Contractors
Employee Leasing Companies
Geologists
Landscape Architecture
Pilot Commissioners
Pilotage Rate Review
Surveyors and Mappers
Talent Agencies
Veterinary Medicine
Real Estate

¹ See the DBPR web site: <http://www.myflorida.com/dbpr/divisions.html>, last visited on March 21, 2009.

The Division of Regulation is responsible for the enforcement authority for the professional boards and programs.²

Chapter 455, F.S., specifies the general powers of the DBPR. Each profession is administered either directly by the DBPR or through a separately appointed board, council, or commission. Section 455.01, F.S., defines the term “profession” to mean:

“any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”

The bill contains numerous modifications relating to several programs under the DBPR.

Inactive/delinquent licenses

Section 455.271, F.S., provides the process for placing a professional license in an inactive or delinquent status. Licensees are permitted to choose, at the time of licensure renewal, whether to be in an active or inactive status. A licensee who is in an inactive status may change to active status at any time if the licensee meets requirements for active status, pays licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees, and meets continuing education requirements.

A delinquent status licensee must apply 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 renders the license void without any further action by an appropriate board or the DBPR.

Biennial cycles

Currently, the life cycle and renewal period of a license issued by the DBPR is two years (a biennium) and the applicable fee is established to reflect this time period. Section 455.2179, F.S., requires the approval of continuing education (CE) training and the approval, by the DBPR or an appropriate board, of a CE provider.

Section 455.2228, F.S., requires barbers and cosmetologists complete CE training and instruction on HIV and AIDS as a part of the biennial relicensure requirements.

Section 455.273, F.S., specifies that before the end of a licensure cycle, the DBPR issue a renewal notice to an active or inactive licensee and the notice must state that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active.

The approval process and the applicable fee is based on a biennial basis not to exceed \$250 per two year cycle.

Licensure of non-residents

Currently, section 455.213, F.S., provides for the general licensing provisions for the DBPR. It provides for various applications and forms to be submitted. The DBPR processes applications for licensure and license renewal. Section 455.217, F.S., allows a board or the DBPR to require the successful passage of questions relating to state laws and rules as a part of the examination for licensure. These questions are required to be related to the practice of the profession regulated by the respective board or by the DBPR.

² See the DBPR web site: <http://www.myflorida.com/dbpr/divisions.html>, last visited on March 21, 2009.

Financial responsibility – electrical contractors

Chapter 489, part I, F.S., governs the regulation of the construction industry. Applicants for initial issuance or renewal of licensure must provide proof of financial responsibility by furnishing to the construction industry licensing board (CILB) a nationally recognized credit report, and evidence of financial responsibility, credit, and business reputation. The CILB is required to adopt rules “defining financial responsibility based upon the applicant's credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers.” The rules are required to specify the grounds for disqualification for licensure based on lack of financial responsibility.

Section 489.115(5)(b), F.S., authorizes the CILB to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds.

Section 455.213, F.S., provides for the general licensing provisions for the DBPR. It provides for various applications and forms to be submitted. Under s. 455.213, F.S., the DBPR may allow for submissions by a licensee be done by electronic means. Section 455.213(11), F.S., provides that any required written submissions for application of licensure may also be required to be submitted electronically.

Construction license examination

Section 489.111, F.S., specifies, in part, the requirements for an applicant to take the construction license examination. Requirements available to an applicant include formal education, work experience, or a combination of the two. Work experience requirements include:

at least 4 years of active experience as a worker who has learned the trade by serving an apprenticeship as a skilled worker who is able to command the rate of a mechanic in the particular trade or as a foreman who is in charge of a group of workers and at least 1 year of active experience as a foreman;

has a combination of 1 year of experience as a foreman and 3 years of credits for any accredited college-level courses;

has a combination of 1 year of experience as a skilled worker, 1 year of experience as a foreman, and 2 years of credits for any accredited college-level courses; or

has a combination of 2 years of experience as a skilled worker, 1 year of experience as a foreman, and 1 year of credits for any accredited college-level courses.

Effect of proposed changes

Inactive/delinquent licenses

The bill amends s. 455.2124, F.S., relating to continuing education requirements, to require the completion of no more than one renewal cycle of continuing education requirements by an inactive licensee seeking to regain active status.

Biennial cycles

The bill specifies three license renewal life cycles to be for a quadrennial (4 year) period rather than a biennial (two year) period. This change would apply to requirements for approval of CE providers, barbers and cosmetologists CE training on HIV/AIDS, and reactivating an inactive.

Licensure of non-residents

The bill specifies that:

A nonresident who has been licensed in good standing for at least 2 years in another state qualifies for licensure in this state if such nonresident completes a course on Florida laws and rules and passes the resulting examination.

The bill allows nonresident licensure by examination for activities relating to:

Architecture and Interior Design
Asbestos
Athlete Agents
Building Code Administrators and Inspectors
Construction Industry
Electrical Contractors
Employee Leasing Companies
Geologists
Real Estate
Talent Agencies
Veterinary Medicine

Financial responsibility – electrical contractors

The bill amends s. 489.515, F.S., to allow the Electrical Contractors Licensing Board to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds, similar to the rule authority of the construction industry licensing board.

Construction license examination

The bill allows an applicant for the examination for a construction license to take a prelicensure course approved by the construction industry licensing board to be substituted for the work experience requirements.

B. SECTION DIRECTORY:

Section 1. Amends 455.2124, F.S., to limit certain continuing education requirements to the equivalent of one renewal cycle.

Section 2. Amends 455.2179, F.S., to provide certain continuing education fee requirements apply on a quadrennial basis.

Section 3. Amends 455.2228, F.S., to provide certain continuing education requirements apply on a quadrennial basis.

Section 4. Amends 455.273, F.S., to provide certain continuing education requirements apply on a quadrennial basis.

Section 5. Amends 455.271, F.S., to allow for a grace period for the reactivation of a license upon the submission of an application and payment of a fee.

Section 6. Amends 468.403, F.S., to allow nonresident licensure by examination for activities relating to talent agencies.

Section 7. Amends 468.453, F.S., to allow nonresident licensure by examination for activities relating to athlete agents.

Section 8. Amends 468.525, F.S., to allow nonresident licensure by examination for activities relating to employee leasing companies.

Section 9. Amends 468.613, F.S., to allow nonresident licensure by examination for activities relating to building code administrators and inspectors.

Section 10. Amends 469.005, F.S., to allow nonresident licensure by examination for activities relating to asbestos consultants and contractors.

Section 11. Amends 474.217, F.S., to allow nonresident licensure by examination for activities relating to veterinary medicine.

Section 12. Amends 475.180, F.S., to allow nonresident licensure by examination for activities relating to real estate.

Section 13. Amends 476.114, F.S., to require the application to take the barber examination be in writing.

Section 14. Amends 476.144, F.S., to correct a cross reference due to a change in s. 476.114, F.S., relating to barbering.

Section 15. Amends 477.019, F.S., to require the application to take the cosmetology examination be in writing.

Section 16. Amends 481.209, F.S., to require the application to take the architect and the interior design examination be in writing.

Section 17. Amends 481.213, F.S., to allow nonresident licensure by examination for activities relating to architecture and interior design.

Section 18. Amends 489.111, F.S., to allow an applicant for the examination for a construction license to take a prelicensure course approved by the construction industry licensing board to be substituted for work experience requirements.

Section 19. Amends 489.115, F.S., to allow nonresident licensure by examination for activities relating to construction contracting.

Section 20 Amends 489.118, F.S., to remove a reference relating to certification of a construction contractor.

Section 21. Amends 489.511, F.S., to allow nonresident licensure by examination for activities relating to electrical contracting.

Section 22. Amends 489.105, F.S., to allow the electrical contractors licensing board to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds.

Section 23. Amends 492.105, F.S., require the application to take the geology examination be in writing.

Section 24. Amends 492.108, F.S., to correct a cross reference due to the change in s. 492.105, F.S., relating to geology.

Section 25. Effective date – upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill creates a new fee of \$50 for the reactivation of a license that has expired and the former practitioner requests that the license be reactivated by the DBPR.

2. Expenditures:

The bill is designed to reduce activities of the DBPR that have been identified as unnecessary regulatory burdens to assist practitioners who are regulated by the DBPR

At the time of publication of this analysis, the DBPR has been unable to provide specific fiscal data relating to the bill.

A reduction in expenditures by the DBPR could be anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A reduction in expenses may be anticipated for practitioners impacted by the bill resulting from any reductions in regulatory burdens.

D. FISCAL COMMENTS:

At the time of publication of this analysis, the DBPR has been unable to provide specific fiscal data.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES