

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 1844

INTRODUCER: Senator Crist

SUBJECT: Locksmith services

DATE: March 31, 2009 REVISED: 04/01/09

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------|----------------|-----------|-------------------------|
| 1. | O'Callaghan | Cooper | CM | Fav/2 amendments |
| 2. | | | CA | |
| 3. | | | GO | |
| 4. | | | CJ | |
| 5. | | | GA | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates the Florida Locksmith Services Act within part XII, ch. 559, F.S., to regulate locksmith services and preempt all local regulation of the locksmith industry beginning July 1, 2010.

This bill requires each locksmith service business to be licensed (or more precisely, registered) by the Department of Agriculture and Consumer Services (department) and each license must be renewed biennially. Applicants for a license are required to identify each employee providing locksmith services as well as each officer, director, owner, and partner and submit fingerprints from these individuals to the department to forward to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a background check and retain a copy of the background check in the individual's personnel file. Additionally, employees are required to be trained in industry ethics and in other areas affecting their trade and are subject to continuing-education requirements.

This bill provides certain exceptions to the licensing requirement (e.g. emergency personnel, retail sales representatives, hardware stores, manufacturers, and landlords).

Each business is responsible for training and supervising its employees, maintaining a minimum of \$100,000 in liability insurance per incident, and maintaining proper records.

This bill also provides for the regulation of apprentice locksmiths and requires that apprentices be trained and directly supervised.

Additionally, this bill provides for criminal, administrative, and civil penalties.

This bill creates part XII, ch. 559, F.S., and the following sections: 559.941, 559.942, 559.943, 559.944, 559.945, 559.946, 559.947, 559.948, 559.949, 559.95, 559.951, 559.952, 559.953, 559.954, 559.955, 559.956, 559.957, 559.958, 559.959, 559.96, 559.961, and 559.962.

II. Present Situation:

According to the Associated Locksmiths of America,

[a] professional trained locksmith/security professional may do some or all of the following: install locks, deadbolts and other mechanical or electronic locking devices to safeguard homes, businesses, vehicles and other property. Locksmiths also may modify or repair such devices, rekey locks, make duplicate keys or cards, generate or program new keys/cards for locks whose keys/cards have been lost and respond to emergency calls to unlock vehicles, homes and businesses that have been locked accidentally, or whose locks have malfunctioned. Some locksmiths install and service electronic alarm and surveillance systems. Many locksmiths specify, design, provide, install and service a wide range of electronic access control systems and closed circuit television (CCTV) systems. Because of the integration of electronic security systems with computers and networks, some locksmiths maintain security hardware and software for computer systems.¹

Presently, 13 states and the District of Columbia require locksmith licensing.² 8 of these states require a test or exam to be a licensed locksmith. However, in Florida there is no statewide regulation of the locksmith industry and only Miami-Dade County regulates locksmiths.³

Consumers may be protected from unfair and deceptive practices of locksmiths under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), ch. 501, part II, F.S. The act prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce. "Trade or commerce," which includes the conduct of any trade or commerce, is defined as the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. The act provides for remedies such as cease and desist orders, injunctions, remedies by

¹ Associated Locksmiths of America. *What Does a Professional Locksmith/Security Professional Do?*, available at <http://www.aloa.org/about/> (Website last visited on March 25, 2009).

² See the Associated Locksmiths of America Legislative Map, available at http://www.aloa.org/legislation/Leg_Map/ALOA_Map.htm (Website last visited on March 25, 2009).

³ Locksmith.net, *10 Point Phony Locksmith Checklist*, available at <http://www.locksmith.net/> (Website last visited on March 25, 2009).

the enforcing authority, and the award of attorney's fees and costs to the prevailing party in civil litigation. A willful violation of the FUDTPA subjects the violator to a civil penalty of not more than \$10,000 for each violation.

Federal law provides a measure of protection against unfair or deceptive contract provisions under the Federal Trade Commission Act, which makes unlawful any "unfair or deceptive acts or practices in or affecting commerce."⁴

III. Effect of Proposed Changes:

This bill creates the Florida Locksmith Services Act within part XII, ch. 559, F.S., to regulate locksmith services and preempt all local regulation of the locksmith industry beginning July 1, 2010.

Section 559.942, F.S., is created to provide for the purpose of the bill and states that locksmiths operate in public trust and must be trained in regulations and laws applicable to their profession and that regulation of locksmith services is necessary to protect the safety and security of the public.

Section 559.943, F.S., is created to provide that the bill preempts any local regulation of locksmith services beginning July 1, 2010.

Section 559.944, F.S., is created to exempt certain individuals or businesses from the application of the bill including:

- Emergency personnel;
- Sales representatives selling locksmith products;
- Employees of hardware stores or retail stores providing rekeying services;
- A licensed low voltage contractor installing or servicing electromechanical, electronic, or electromagnetic devices and peripheral hardware;
- A person acquiring or using a key-duplication machine;
- A landlord or his or her agent using a master-key system;
- Employees of financial institutions providing safe-keeping services;
- Automotive service dealers, a lock manufacturer or agent of the lock manufacturer;
- Building trades personnel;
- Wrecker operators; and
- Individual consumers of locking mechanisms.

Section 559.945, F.S., is created to provide definitions.

Section 559.946, F.S., is created to provide the department with rulemaking authority and requires the department to adopt rules related to the licensing of locksmith services businesses, background and fingerprint checks of certain individuals, certain required forms, certain fees, and photo identification.

⁴ See 15 U.S.C. §45.

Section 559.947, F.S., is created to provide for certain application requirements for being licensed as a locksmith services business.

This section provides that any locksmith services business providing locksmith services must be licensed by the department. All applicants must provide the department with specific information in order to be licensed, including:

- The full legal name of the applicant and its business name;
- The business' physical address or alternative designated address;
- The names, addresses, and telephone numbers of employee locksmiths;
- The applicant's Florida agent for service of process;
- A statement from a business stating what type of legal entity it is (corporation, partnership, or limited liability corporation), its FEIN number, and the date the entity registered with the Department of State;
- All names used by the business for the last 5 years;
- Proof of liability insurance; and
- The number of locksmith employees that are employed by the business.

Additionally, the application process requires background and fingerprint checks for the business' owner (e.g. officers and directors of a corporation; general partners for a partnership) and locksmith employees and affidavits regarding the owner or employee's criminal record. The Florida Department of Law Enforcement (FDLE) is directed to process the fingerprints for a background check by FDLE as well as the Federal Bureau of Investigation. All required information must be submitted to the department within 10 days of the hiring of a new locksmith employee. FDLE is permitted to retain the fingerprints in the statewide automated fingerprint identification system pursuant to s. 943.051, F.S.⁵

A license must be issued for each locksmith services business, and the bill provides that licenses are non-transferrable and non-assignable. The department is permitted to stagger initial registrations to ensure a similar amount in each year and set fees at a lower rate.

An individual may not be a locksmith or locksmith business owner if he or she was convicted, found guilty of, or pled guilty or nolo contendere to, a felony within the last 10 years or was incarcerated as a result of being convicted, found guilty of, or pled guilty or nolo contendere to certain "crimes of dishonesty" within the last 10 years.

This section permits the department to deny or revoke a locksmith services business' license if the applicant or any of its directors, partners, or others have:

- Failed to meet the requirements set forth in the bill;
- Failed to comply with civil or administrative penalties (including fines);
- Received any civil, criminal, or administrative adjudication in any jurisdiction;
- Pending criminal, administrative, or enforcement proceedings in any jurisdiction; or

⁵ Department of Law Enforcement Act.

- Have had a judgment entered against them pursuant to the Florida Deceptive and Unfair Trade Practices Act.

This section caps biennial licensure fees at \$800 for businesses employing one to five locksmiths and \$1,600 for those employing more than five locksmiths. Once a locksmith services business meets the qualifications to be licensed, the department issues the business a license certificate, which the business must exhibit before a local business tax receipt will be issued or renewed.

Section 559.948, F.S., is created to provide for the licensing of locksmith services businesses that are not residents of Florida. This section provides for license reciprocity with other states, provided that the state's licensure programs collect the same information required by this legislation.

Section 559.949, F.S., is created to provide for the requirements of renewing a license. The renewal cost for licensure is the same as the cost associated with originally applying for a license and a license is to be renewed biennially. The renewal application requires verification that there has been no changes in the criminal history of each individual that has already completed a background check and requires all information that is required to be provided upon application for a license to be submitted to the department concerning any employees that have been hired since the business was first licensed or since the last license renewal. The business must also submit proof of liability insurance.

Section 559.95, F.S., is created to provide for locksmith services business employer requirements. Each employee is required to complete training and continuing-education in courses in "industry ethics," the *Americans with Disabilities Act*, the *Florida Fire Prevention Code*, and the *Life Safety Code*. The bill further requires employers to issue each employee a photo identification card and maintain a photograph, a background check, and certificate of completion of the required ethics and training courses for each locksmith employee.

Section 559.951, F.S., is created to require each locksmith services business to carry at least \$100,000 per incident liability insurance coverage. The business must provide proof of insurance as part of the licensing process. The liability insurance is necessary to cover losses or damages resulting from the negligence of the locksmith business or employees. Failure to maintain the insurance would allow the department to suspend the business' license and seek a court ordered injunction and civil penalty up to \$10,000. The insurance policy must be issued by an insurance company or carrier licensed to transact business in this state, pursuant to the Florida Insurance Code.⁶

Section 559.952, F.S., is created to require locksmiths to carry photo identification cards and locksmith services businesses to display licenses. A locksmith's photo identification card is required to list the employee's name, the business' name, the locksmith license number, and contain the word "Locksmith" or "Automotive-Only Locksmith," as applicable. Employees are required to carry the card on their person at all times when performing locksmith services.

⁶ See s. 624.01, F.S.

Locksmith services businesses are required to display a copy of their license issued by the department at the place of business and in a manner easily readable by the general public. Alternatively, for mobile locksmith services, a copy of the license shall be maintained in each service vehicle for presentation to any person of the general public, any law enforcement officer, or any state or local official upon request. The bill requires all advertisements, service vehicles, and forms to include the license number and the name of the business.

Section 559.953, F.S., is created to specify what types of payment to a locksmith services business are acceptable and to provide requirements for recordkeeping.

This section requires locksmiths to accept at least two out of three categories of payment:

- Cash, cashier's check, money order, or traveler's check;
- Valid personal check with appropriate identification information; or
- Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

This section also requires the locksmith services business to clearly and conspicuously disclose in the work order, invoice, or sales receipt, the forms of payment that the locksmith will accept. Additionally, a copy of each work order, invoice, or sales receipt must be retained for 2 years; shall include the name of the person performing the service; and must be readily available for inspection by any law enforcement officer or by the department during normal business hours.

Section 559.954, F.S., is created to make unlawful any requirement that a person waive his or her rights provided in this bill as a precondition to the performance of the locksmith services.

Section 559.955, F.S., is created to require FDLE to supply the department with any arrest and conviction records for an individual applying for or holding a locksmith services business license, upon the department's request.

Section 559.956, F.S., is created to prohibit certain acts by persons. A person is considered to be in violation of the act if they commit one of the following acts:

- Offer to provide locksmith services without a valid license issued by the department;
- Advertise or represent oneself as a locksmith services business without being licensed;
- Obtain, own, or possess certain locksmithing tools, manuals, or codebooks without a valid license;
- Obtain, own, or possess car-opening tools without a valid license;
- Possess locksmithing tools, implements, or outfits (with exceptions);
- Fraudulently misuse a customer's credit card;
- Fail or refuse to provide law enforcement or the department with a record or information that is required to be disclosed;
- File with the department the fingerprints of a person other than the person required to submit fingerprints under this part;
- Use a local facility to advertise or solicit business without disclosing prominently and conspicuously in all advertisements, work orders, invoices, or sales receipts, the address of the locksmith services business;

- Operate a locksmith services business in a location other than the location provided on the license certificate;
- Make a false statement in response to a request or investigation by the department, the Department of Legal Affairs, a law enforcement officer, or the state attorney;
- Make a material false statement in an application, document, or record required to be submitted or retained under this part;
- Commit any other act of fraud or misrepresentation, or fail to disclose a material fact;
- Disclose or permit the disclosure of any customer information without the customer's consent, unless authorized by law; or
- Violate any of the provisions of this act or rules adopted by the department.

Section 559.957, F.S., is created to provide for administrative remedies and penalties. This section requires the department to process consumer complaints as defined by current law.

Additionally, this section requires a locksmith services business to allow department personnel to enter its place of business to ascertain whether the license certificate is current. If the business refuses entry, the department may seek injunctive relief from a circuit court to compel compliance.

If the department finds that a business is in violation of the provisions of this bill or rules adopted by the department, the department may:

- Issue a notice of noncompliance under s. 120.695, F.S.;⁷
- Impose an administrative fine up to \$10,000 for each act or omission;
- Direct that the locksmith services business cease and desist specified activities;
- Refuse to issue a license or revoke or suspend a license; or
- Place the license on probation for a period of time, subject to the conditions specified by the department.

This section directs that administrative proceedings, which could result in the entry of an order imposing any of the penalties expressed in the bill, are governed by ch. 120, F.S.⁸ The department is permitted to assess the sanctioned party for the cost of conducting administrative proceedings when issuing a final order imposing an administrative fine or suspending, revoking, or denying initial issuance or renewal of a license.

The department is also directed to post a prominent "Closed by Order of the Department" sign on any locksmith services business that has had its license suspended or revoked. The department shall also post the sign if the business has been judicially or administratively determined to be operating without a license. A business may be subject to second-degree misdemeanor penalties if it removes or defaces a sign posted by the department or continues to operate even though its license is suspended or revoked. Additionally, the department may impose administrative sanctions for any of these violations.

⁷ This section expresses that its intent is to be the department's first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it.

⁸ Administrative Procedures Act.

Section 559.958, F.S., is created to provide for civil remedies and penalties for violations of this bill. This section permits a customer injured by a violation of this bill to bring an action in the appropriate court for relief and the prevailing party may collect damages as well as court costs and reasonable attorney's fees. A customer may also bring an action for injunctive relief in circuit court.

Furthermore, the department is authorized to institute a civil action to recover any penalties or damages authorized by this bill and for injunctive relief to compel compliance with the provisions of this bill. The department is permitted to seek a civil penalty of up to \$10,000 for each violation and may seek restitution for, and on behalf of, any customer injured by a violation.

This section also provides that any agreement that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the locksmith services business, as provided by this bill, is void.

Section 559.959, F.S., is created to provide for criminal penalties for certain violations of the bill. The bill makes any person who commits one of the delineated prohibited acts provided for in the bill subject to first-degree misdemeanor penalties.⁹

If these violations are committed with the intent to commit burglary, robbery, or larceny, then the punishment upon conviction is a third-degree felony.¹⁰ Additionally, the bill provides for a criminal violation associated with an administrative action. This provision states that defacing or removing a sign indicating the closure of the business by the department without the written authorization is a second-degree misdemeanor.¹¹

Section 559.96, F.S., is created to declare that any violation of the provisions of this bill constitutes a deceptive and unfair trade practice under part II of ch. 501, F.S., the *Florida Deceptive and Unfair Trade Practices Act* (FDUTPA) and administrative rules adopted pursuant to that act. FDUTPA provides for remedies such as cease and desist orders, injunctions, remedies by the enforcing authority, and the award of attorney's fees and costs to the prevailing party in civil litigation. A willful violation of the FDUTPA subjects the violator to a civil penalty of not more than \$10,000 for each violation.

Section 559.961, F.S., is created to require that any moneys recovered by the department as a penalty for violations of the bill shall be deposited in the department's General Inspection Trust Fund.

Section 559.962, F.S., is created to create an advisory council consisting of nine members and appointed by the Commissioner of Agriculture and Consumer Services. The purpose of the advisory council is to advise the department on matters relating to advancements in industry

⁹ Sections 775.082 and 775.083, F.S., provide that a first-degree misdemeanor carries a jail sentence not exceeding 1 year as well as a fine not exceeding \$1,000.

¹⁰ Sections 775.082, 775.083, and 775.084, F.S., provide that a third-degree felony carries a penalty of imprisonment for not more than 5 years and a fine of not more than \$5,000.

¹¹ Sections 775.082 and 775.083, F.S., provide that a second-degree misdemeanor carries a penalty of a jail sentence of not more than 60 days and a fine of not more than \$500.

standards and practices and on other matters requiring expertise in the locksmith industry to promote better consumer protection.

This section specifies that five members must be individuals employed by separate, licensed locksmith services businesses and who do not provide automotive-only locksmith services; one member must be employed by separate, licensed locksmith services businesses that provide automotive-only locksmith services; one member must be an electrical contractor certified under ch. 489, F.S.;¹² one member must be a consumer who is not connected with the locksmith industry; and one member must have private security, investigative, or law enforcement expertise or experience.

Members of the advisory council must meet the following specific criteria to be qualified as a member:

- Must have at least 3 years of experience in his or her profession (except for the consumer member);
- Must be currently engaged in his or her profession; and
- Must be a resident of Florida.

Council members are appointed for a 4 year term and any vacancies in the interim are to be filled by the Commissioner of Agriculture and Consumer Services. The council must elect a chair and vice chair and the chair calls all meetings. Members of the council are not paid, but may be reimbursed for certain food and travel expenses.

This bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Lines 692 through 693 of the bill state that it is a violation of the bill to “commit any other act of fraud or misrepresentation, or fail to disclose a material fact.” This language may be challenged under the state and federal constitutions as being vague and overbroad as it may encompass a simple lie or an intentional fraud and may affect a person’s right to

¹² Part II of ch. 489, F.S., concerns Electrical and Alarm System Contracting.

due process because this language does not provide clear notice of what conduct is prohibited.¹³

Furthermore, the bill provides that if any person fails, or refuses, after notice, “to provide any law enforcement officer or the department with any document or record or disclose any information required to be produced or disclosed,” then they are subject to criminal penalties. This provision may also be overbroad. In general, “a statute is overbroad... when the legislature sets a net large enough to catch all possible offenders and leaves it to the courts to step inside and determine who is being lawfully detained and who should be set free.”¹⁴

At present, this provision can be read to require a person to disclose anything that a law enforcement officer or the department chooses to require to be disclosed (whether relevant to this act or not). It would be clearer and more effective if the phrase “by this part” was inserted at the end of the sentence.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the department, approximately 7,000 state and national background checks will be performed the first year, 500 checks in subsequent years for new licensees, and 7,000 state and national checks for biennial license renewals. These figures are based on hard card fingerprint submissions.

Year 1: 7,000 x \$54.25 = \$379,750

Year 2: 500 x \$54.25 = \$27,125

Year 3: 7,000 x \$54.25 = \$379,750 (license renewals)

Each fingerprint request costs \$54.25. Of that amount, \$24.00 goes into the FDLE Operating Trust Fund and \$30.25 from each request is forwarded to the FBI. The result is not revenue for Florida, but an expense to the private sector.

The department has estimated that 2,400 businesses will be subject to licensing based on answers provided by the Associated Locksmiths of America (ALOA) on the Sunrise Questionnaire.¹⁵ The department is unable to provide any other estimate for the number of locksmith businesses in Florida.¹⁶

¹³ See Amend. XIV, Section I, of the U.S. Constitution and Art. I, Section 9, of the State Constitution.

¹⁴ 73 Am. Jur. 2d Statutes § 243.

¹⁵ See the Sunrise Questionnaire for Groups Seeking New Regulation, on file with the Commerce Committee.

¹⁶ Telephone conversation with David McInnes, Department of Agriculture and Consumer Services, Office of Legislative Affairs. March 27, 2009.

Locksmith services businesses will also have to pay for the training and continuing-education of employees and apprentices as required in the bill. These businesses will also have to pay to keep at least the minimum amount of liability insurance as required under the bill.

C. Government Sector Impact:

The department has indicated the need for eight new employees to implement the provisions of this bill and has not indicated an intention to stagger the hiring of these employees. Some first year savings might be realized if the department staggered the hiring of the new employees as needed.

The department has provided the following fiscal impact information.¹⁷

| | FY 09-10 | FY 10-11 | FY 11-12 |
|---|--------------------|------------------|------------------|
| <u>Revenues (General Inspection Trust Fund)</u> | | | |
| Recurring | | | |
| (2,400 Registrants estimated) | \$1,080,000 | \$1,080,000 | \$1,080,000 |
| <u>1st year</u> | | | |
| 1,200 Registrants @\$600 biennial ¹⁸ | | | |
| 1,200 Registrants @\$300 annual ¹⁹ | | | |
| <u>Subsequent Years</u> | | | |
| 1,200 Registrants @ \$600 biennial | | | |
| 2,400 Initial Background checks @\$45.25 | <u>108,600</u> | <u>5,430</u> | <u>5,430</u> |
| (5% of 2,400 or 120 estimated in later yrs) | 1,188,600 | 698,430 | 698,430 |
| Non-Recurring | | | |
| | \$0 | \$0 | \$0 |
| Total Revenue | \$1,188,600 | \$698,430 | \$698,430 |

Fees for this program will be set by rule and are based upon estimated costs to the department. In an effort to keep fees at the lowest possible level and ensure efficient regulation, the department will initially set the fees at \$300 for businesses with one to five employees and \$600 for businesses with over six employees. To implement the process, approximately 50 percent of registrants will register for 1 year and approximately 50 percent will register for 2 years. During the second year the 50 percent that registered for 1 year will then register for 2 years. This will facilitate the biennial registration process, provide annualized revenue and facilitate program operating costs.

¹⁷ See DACS' Bill Analysis of SB 1844, on file with the Commerce Committee.

¹⁸ \$600 is an estimate of the amount needed to cover the costs to implement this bill (\$300 per year for 2 years, per business), based on the estimated number of locksmith businesses statewide.

¹⁹ *Id.*

Expenditures

Recurring (GITF)

Salaries (positions)

| | | | |
|---|----------------|----------------|----------------|
| 6-0442 Regulatory Consultant-pay grade 20 | 292,182 | 298,026 | 303,987 |
| 2-8351 Senior Financial Investigator-pay grade 23 | <u>111,496</u> | <u>113,726</u> | <u>116,000</u> |
| Total Salaries | 403,678 | 411,752 | 419,987 |

Expenses

| | | | |
|----------------------------------|---------------|---------------|---------------|
| 8-Professional Expense package | 53,600 | 53,600 | 53,600 |
| Operating cost of Motor Vehicles | 6,000 | 6,000 | 6,000 |
| Travel-Council meetings | <u>10,000</u> | <u>10,000</u> | <u>10,000</u> |
| Total Expenses | 69,600 | 69,600 | 69,600 |

Special Categories

| | | | |
|--|--------------|--------------|--------------|
| FDLE Fingerprint 5% of 2,400 @\$45.25 (5% of initial registrants estimated in subsequent years) | 5,430 | 5,430 | 5,430 |
| 8-Human Resources Allocation | <u>3,208</u> | <u>3,208</u> | <u>3,208</u> |
| Total Special Categories | 8,638 | 8,638 | 8,638 |

AGMIC Budget Entity

| | | | |
|---|--------------|--------------|--------------|
| (GITF-Contracted Services category)8 PCs Maint. | 1,000 | 1,000 | 1,000 |
| 8-Additional Siemens System Maint. | 1,560 | 1,560 | 1,560 |
| 8-Additional Computer System Maint. | <u>2,700</u> | <u>2,700</u> | <u>2,700</u> |
| Total AGMIC Costs | 5,260 | 5,260 | 5,260 |

Total Recurring Costs: 487,176 495,250 503,485

Non-recurring (GITF)

Expenses (GITF)

| | |
|---------------------------------|--------|
| 8-Professional Packages @ 3,412 | 27,296 |
|---------------------------------|--------|

OCO (GITF)

| | |
|------------------------------|-------|
| 8-Personal Computers @ 1,000 | 8,000 |
|------------------------------|-------|

Special Categories (GITF)

| | |
|-------------------------------|--------|
| Acquisition of Motor Vehicles | 37,800 |
|-------------------------------|--------|

| | | | |
|---|----------------------|----------------------|----------------------|
| Background Checks (initial background checks) (95% of 2,400 @ \$45.25) | 103,170 | | |
| Contracted Services-100 hours @ \$85.00 (Programming for online use of “E-Commerce for license renewals and other features) | 85,000 | | |
| Siemens-Reprogramming & additional card in telephone system | 9,000 | | |
| AGMIC-software application & DOCS Integration (GITF-Contracted Services category) | 10,000 | | |
| Total Non-Recurring Non-Operating Costs (GITF) | 28,266 | | |
| Administrative/Indirect costs | 53,919 | 54,997 | 56,097 |
| General Revenue Service Charge (7.3%) | <u>78,840</u> | <u>52,560</u> | <u>52,560</u> |
| Total Non-Operating Costs | 132,759 | 107,557 | 108,657 |
| Grand Total of Costs (GITF) | \$900,201 | \$602,807 | \$612,142 |

VI. Technical Deficiencies:

The term “express approval” in line 142 of the bill is ambiguous and it is unclear as to whether the intent is to require written approval or whether verbal or gesturing of approval is sufficient.

Lines 449 through 450 of the bill allow the department to deny, revoke, or refuse to renew a license if the locksmith services business or its employees “received any civil, criminal, or administrative adjudication in any jurisdiction.” However, a person may be adjudicated “not guilty.” Therefore, as the bill currently reads, even if a person is adjudicated “not guilty,” they may be denied a license.

Lines 446 through 448 and lines 451 through 452 are far-reaching provisions of the bill, which may prevent a person who has to pay, or has failed to pay, something as insignificant as a traffic ticket from being licensed.

The term “authorized representative” in line 615 of the bill is unclear as to whether it means a family member or employer or other person and it is unclear as to who provides the authorization.

VII. Related Issues:

Registration vs. Certification/Licensing

Although this bill makes reference to the “licensing” of locksmith services businesses, the language of the bill would be more precise if it were changed to reference the “registration” of locksmith services businesses.

It is generally recognized that commercial regulation of an activity or profession can be accomplished at two general levels: registration and certification/licensing.

Registration is the lower level of regulation, requiring that before an individual be authorized to engage in commercial activity, the individual or business submit verification of specified business information, such as legal organization, proof of insurance, a local business tax receipt, and a registration fee. Registration could also require verification of professional certification by a private organization, separate from the regulating entity.

Certification or licensing requires practitioners meet certain minimum qualifications – established by the regulating entity – before they are authorized to perform certain types of commercial activities or operate certain types of businesses. Certification or licensing typically requires the individual meet educational and experience requirements, and pass a competency test administered or recognized by the regulating entity. Typically, a peer board sets the regulatory standards and disciplines certificate holders or licensees.

Other Issues

Because the bill defines a “locksmith services business” as “a person, who, for compensation, provides... locksmith services...,” it could be read in conjunction with the bill’s licensing requirements, which requires the licensing of any locksmith services business providing or attempting to provide locksmith services, to require each individual performing locksmith services to be licensed.

This bill will preempt local regulation of locksmith services on July 1, 2010. This bill takes effect on July 1, 2009. Thus, locksmiths will be required to comply with both state and local regulation for a period of 1 year.

Fraudulent misuse of a customer’s credit card is already covered under current law.²⁰ Under the provisions of this bill, fraudulent misuse of a customer’s credit card is a first-degree misdemeanor. Under current law, fraudulent misuse is a first-degree misdemeanor only if the fraudulently charged amount is less than \$300 in a 6 month period. If the amount is more than \$300 or certain other conditions are met, fraudulent misuse of a customer’s credit card is a third-degree felony.²¹ Thus, this bill may lessen the penalty currently provided by law in some instances.

²⁰Section 817.62, F.S.

²¹ Section 817.67, F.S.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

Barcode 127472 by Commerce on April 1, 2009:

Is a technical amendment that corrects a Scribner’s error by changing the reference to “annual fee” to “biennial fee” to comport with the biennial fee provisions provided for in the bill.

Barcode 447062 by Commerce on April 1, 2009:

Is a technical amendment that clarifies that the Federal Bureau of Investigation is the entity responsible for name checks, as opposed to the Florida Department of Law Enforcement.