

1                   A bill to be entitled  
 2           An act relating to the Department of Business and  
 3           Professional Regulation; amending s. 20.165, F.S.;  
 4           establishing the Division of Service Operations within the  
 5           department; amending s. 455.217, F.S.; transferring  
 6           certain duties of the Division of Technology relating to  
 7           examinations to the Division of Service Operations;  
 8           deleting a requirement that the department use  
 9           professional testing services for examinations under  
 10          certain circumstances; providing an effective date.

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

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 14           Section 1. Paragraph (k) is added to subsection (2) of  
 15           section 20.165, Florida Statutes, to read:

16           20.165 Department of Business and Professional  
 17           Regulation.--There is created a Department of Business and  
 18           Professional Regulation.

19           (2) The following divisions of the Department of Business  
 20           and Professional Regulation are established:

21           (k) Division of Service Operations.

22           Section 2. Subsection (1) of section 455.217, Florida  
 23           Statutes, is amended to read:

24           455.217 Examinations.--This section shall be read in  
 25           conjunction with the appropriate practice act associated with  
 26           each regulated profession under this chapter.

27           (1) The Division of Service Operations ~~Technology~~ of the  
 28           Department of Business and Professional Regulation shall

29 provide, contract, or approve services for the development,  
 30 preparation, administration, scoring, score reporting, and  
 31 evaluation of all examinations. The division shall seek the  
 32 advice of the appropriate board in providing such services.

33 (a) The department, acting in conjunction with the  
 34 Division of Service Operations Technology and the Division of  
 35 Real Estate, as appropriate, shall ensure that examinations  
 36 adequately and reliably measure an applicant's ability to  
 37 practice the profession regulated by the department. After an  
 38 examination developed or approved by the department has been  
 39 administered, the board or department may reject any question  
 40 which does not reliably measure the general areas of competency  
 41 specified in the rules of the board or department, when there is  
 42 no board. ~~The department shall use professional testing services~~  
 43 ~~for the development, preparation, and evaluation of~~  
 44 ~~examinations, when such services are available and approved by~~  
 45 ~~the board.~~

46 (b) For each examination developed by the department or  
 47 contracted vendor, to the extent not otherwise specified by  
 48 statute, the board or the department when there is no board,  
 49 shall by rule specify the general areas of competency to be  
 50 covered by the examination, the relative weight to be assigned  
 51 in grading each area tested, the score necessary to achieve a  
 52 passing grade, and the fees, where applicable, to cover the  
 53 actual cost for any purchase, development, and administration of  
 54 the required examination. However, statutory fee caps in each  
 55 practice act shall apply. This subsection does not apply to

56 national examinations approved and administered pursuant to  
57 paragraph (d).

58 (c) If a practical examination is deemed to be necessary,  
59 rules shall specify the criteria by which examiners are to be  
60 selected, the grading criteria to be used by the examiner, the  
61 relative weight to be assigned in grading each criterion, and  
62 the score necessary to achieve a passing grade. When a mandatory  
63 standardization exercise for a practical examination is required  
64 by law, the board may conduct such exercise. Therefore, board  
65 members may serve as examiners at a practical examination with  
66 the consent of the board.

67 (d) A board, or the department when there is no board, may  
68 approve by rule the use of any national examination which the  
69 department has certified as meeting requirements of national  
70 examinations and generally accepted testing standards pursuant  
71 to department rules. Providers of examinations, which may be  
72 either profit or nonprofit entities, seeking certification by  
73 the department shall pay the actual costs incurred by the  
74 department in making a determination regarding the  
75 certification. The department shall use any national examination  
76 which is available, certified by the department, and approved by  
77 the board. The name and number of a candidate may be provided to  
78 a national contractor for the limited purpose of preparing the  
79 grade tape and information to be returned to the board or  
80 department or, to the extent otherwise specified by rule, the  
81 candidate may apply directly to the vendor of the national  
82 examination. The department may delegate to the board the duty  
83 to provide and administer the examination. Any national

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84 examination approved by a board, or the department when there is  
85 no board, prior to October 1, 1997, is deemed certified under  
86 this paragraph. Any licensing or certification examination that  
87 is not developed or administered by the department in-house or  
88 provided as a national examination shall be competitively bid.

89 (e) The department shall adopt rules regarding the  
90 security and monitoring of examinations. In order to maintain  
91 the security of examinations, the department may employ the  
92 procedures set forth in s. 455.228 to seek fines and injunctive  
93 relief against an examinee who violates the provisions of s.  
94 455.2175 or the rules adopted pursuant to this paragraph. The  
95 department, or any agent thereof, may, for the purposes of  
96 investigation, confiscate any written, photographic, or  
97 recording material or device in the possession of the examinee  
98 at the examination site which the department deems necessary to  
99 enforce such provisions or rules.

100 (f) If the professional board with jurisdiction over an  
101 examination concurs, the department may, for a fee, share with  
102 any other state's licensing authority an examination developed  
103 by or for the department unless prohibited by a contract entered  
104 into by the department for development or purchase of the  
105 examination. The department, with the concurrence of the  
106 appropriate board, shall establish guidelines that ensure  
107 security of a shared exam and shall require that any other  
108 state's licensing authority comply with those guidelines. Those  
109 guidelines shall be approved by the appropriate professional  
110 board. All fees paid by the user shall be applied to the  
111 department's examination and development program for professions

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112 regulated by this chapter. All fees paid by the user for  
113 professions not regulated by this chapter shall be applied to  
114 offset the fees for the development and administration of that  
115 profession's examination. If both a written and a practical  
116 examination are given, an applicant shall be required to retake  
117 only the portion of the examination for which he or she failed  
118 to achieve a passing grade, if he or she successfully passes  
119 that portion within a reasonable time of his or her passing the  
120 other portion.

121 Section 3. This act shall take effect upon becoming a law.