

By the Committee on Regulated Industries; and Senator Hays

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1 A bill to be entitled
2 An act relating to regulated professions and
3 occupations; amending s. 322.142, F.S.; authorizing
4 the Department of Highway Safety and Motor Vehicles to
5 release certain digital images to the Department of
6 Business and Professional Regulation to identify
7 certain persons; amending s. 455.213, F.S.;
8 authorizing the Department of Business and
9 Professional Regulation to grant waivers of renewal
10 fees under certain circumstances; amending s. 455.271,
11 F.S.; revising continuing education requirements for
12 certain license reactivations; amending s. 475.42,
13 F.S.; revising violations and penalties for real
14 estate professionals; amending s. 477.0212, F.S.;
15 revising continuing education requirements for
16 cosmetology license reactivations; amending s.
17 477.0265, F.S.; revising prohibited acts for
18 cosmetologists; amending s. 481.217, F.S.; revising
19 continuing education requirements for license
20 reactivation of architect or interior design licenses;
21 amending s. 481.315, F.S.; revising continuing
22 education requirements for landscape architect license
23 reactivations; amending s. 489.116, F.S.; revising
24 continuing education requirements for contractor
25 license reactivations; amending s. 489.519, F.S.;
26 revising continuing education requirements for
27 electrical and alarm system contractor license
28 reactivations; repealing s. 475.611(1)(v), F.S.,
29 relating to Uniform Standards of Professional

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30 Appraisal Practice; repealing s. 475.626(1)(b) and
31 (c), F.S., relating to violations and penalties
32 against registered appraisers; amending s. 475.624,
33 F.S.; establishing professional standards for
34 appraisers by board rule; amending s. 475.628, F.S.;
35 authorizing the board to adopt rules establishing
36 standards of professional appraisal practice; amending
37 s. 509.032, F.S.; clarifying provisions relating to
38 the preemption to the state of the regulation of
39 public lodging and public food service establishments;
40 amending s. 509.261, F.S.; providing for remedial
41 training in response to certain violations by public
42 lodging and food service establishments; amending s.
43 10, chapter 2010-84, Laws of Florida; delaying the
44 effective date of provisions relating to the
45 discipline of appraisal management companies;
46 providing effective dates.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (4) of section 322.142, Florida
51 Statutes, is amended to read:

52 322.142 Color photographic or digital imaged licenses.—

53 (4) The department may maintain a film negative or print
54 file. The department shall maintain a record of the digital
55 image and signature of the licensees, together with other data
56 required by the department for identification and retrieval.
57 Reproductions from the file or digital record are exempt from
58 the provisions of s. 119.07(1) and shall be made and issued only

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59 for departmental administrative purposes; for the issuance of
60 duplicate licenses; in response to law enforcement agency
61 requests; to the Department of Business and Professional
62 Regulation pursuant to an interagency agreement for the purpose
63 of accessing digital images for reproduction of licenses issued
64 by the Department of Business and Professional Regulation or for
65 the purpose of identifying subjects who are under investigation
66 for unlicensed activity pursuant to s. 455.228; to the
67 Department of State pursuant to an interagency agreement to
68 facilitate determinations of eligibility of voter registration
69 applicants and registered voters in accordance with ss. 98.045
70 and 98.075; to the Department of Revenue pursuant to an
71 interagency agreement for use in establishing paternity and
72 establishing, modifying, or enforcing support obligations in
73 Title IV-D cases; to the Department of Children and Family
74 Services pursuant to an interagency agreement to conduct
75 protective investigations under part III of chapter 39 and
76 chapter 415; to the Department of Children and Family Services
77 pursuant to an interagency agreement specifying the number of
78 employees in each of that department's regions to be granted
79 access to the records for use as verification of identity to
80 expedite the determination of eligibility for public assistance
81 and for use in public assistance fraud investigations; or to the
82 Department of Financial Services pursuant to an interagency
83 agreement to facilitate the location of owners of unclaimed
84 property, the validation of unclaimed property claims, and the
85 identification of fraudulent or false claims.

86 Section 2. Subsection (12) is added to section 455.213,
87 Florida Statutes, to read:

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88 455.213 General licensing provisions.-

89 (12) The department may grant a fee waiver for a license
90 renewal to a licensee on a case-by-case basis due to financial
91 hardship or an error caused by the department.

92 Section 3. Subsection (10) of section 455.271, Florida
93 Statutes, is amended to read:

94 455.271 Inactive and delinquent status.-

95 (10) The board, or the department if there is no board,
96 shall require ~~Before reactivation,~~ an inactive or delinquent
97 licensee, except a licensee under chapter 473 or chapter 475, to
98 complete one renewal cycle of ~~shall meet the same~~ continuing
99 education in order to reactivate a license requirements, if any,
100 ~~imposed on an active status licensee for all biennial licensure~~
101 ~~periods in which the licensee was inactive or delinquent. This~~
102 ~~subsection does not apply to persons regulated under chapter~~
103 ~~473.~~

104 Section 4. Subsection (1) of section 475.42, Florida
105 Statutes, is amended to read:

106 475.42 Violations and penalties.-

107 (1) VIOLATIONS.-

108 (a) A person may not operate as a broker or sales associate
109 without being the holder of a valid and current active license
110 therefor. Any person who violates this paragraph commits a
111 felony of the third degree, punishable as provided in s. 775.082
112 or s. 775.083, or, if a corporation, as provided in s. 775.083.

113 (b) A person licensed as a sales associate may not operate
114 as a broker or operate as a sales associate for any person not
115 registered as her or his employer.

116 (c) A broker may not employ, or continue in employment, any

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117 person as a sales associate who is not the holder of a valid and
118 current license as sales associate; but a license as sales
119 associate may be issued to a person licensed as an active
120 broker, upon request and surrender of the license as broker,
121 without a fee in addition to that paid for the issuance of the
122 broker's active license.

123 (d) A sales associate may not collect any money in
124 connection with any real estate brokerage transaction, whether
125 as a commission, deposit, payment, rental, or otherwise, except
126 in the name of the employer and with the express consent of the
127 employer; and no real estate sales associate, whether the holder
128 of a valid and current license or not, shall commence or
129 maintain any action for a commission or compensation in
130 connection with a real estate brokerage transaction against any
131 person except a person registered as her or his employer at the
132 time the sales associate performed the act or rendered the
133 service for which the commission or compensation is due.

134 ~~(e) A person may not violate any lawful order or rule of~~
135 ~~the commission which is binding upon her or him.~~

136 (e) ~~(f)~~ A person may not commit any conduct or practice set
137 forth in s. 475.25(1)(b), (c), (d), or (g) ~~(h)~~.

138 (f) ~~(g)~~ A person may not make any false affidavit or
139 affirmation intended for use as evidence by or before the
140 commission or a member thereof, or by any of its authorized
141 representatives, nor may any person give false testimony under
142 oath or affirmation to or before the commission or any member
143 thereof in any proceeding authorized by this chapter.

144 (g) ~~(h)~~ A person may not fail or refuse to appear at the
145 time and place designated in a subpoena issued with respect to a

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146 violation of this chapter, unless because of facts that are
147 sufficient to excuse appearance in response to a subpoena from
148 the circuit court; nor may a person who is present before the
149 commission or a member thereof or one of its authorized
150 representatives acting under authority of this chapter refuse to
151 be sworn or to affirm or fail or refuse to answer fully any
152 question propounded by the commission, the member, or such
153 representative, or by any person by the authority of such
154 officer or appointee; nor may any person, so being present,
155 conduct herself or himself in a disorderly, disrespectful, or
156 contumacious manner.

157 (h)~~(i)~~ A person may not obstruct or hinder in any manner
158 the enforcement of this chapter or the performance of any lawful
159 duty by any person acting under the authority of this chapter or
160 interfere with, intimidate, or offer any bribe to any member of
161 the commission or any of its employees or any person who is, or
162 is expected to be, a witness in any investigation or proceeding
163 relating to a violation of this chapter.

164 (i)~~(j)~~ A broker or sales associate may not place, or cause
165 to be placed, upon the public records of any county, any
166 contract, assignment, deed, will, mortgage, affidavit, or other
167 writing which purports to affect the title of, or encumber, any
168 real property if the same is known to her or him to be false,
169 void, or not authorized to be placed of record, or not executed
170 in the form entitling it to be recorded, or the execution or
171 recording whereof has not been authorized by the owner of the
172 property, maliciously or for the purpose of collecting a
173 commission, or to coerce the payment of money to the broker or
174 sales associate or other person, or for any unlawful purpose.

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175 However, nothing in this paragraph shall be construed to
176 prohibit a broker or a sales associate from recording a judgment
177 rendered by a court of this state or to prohibit a broker from
178 placing a lien on a property where expressly permitted by
179 contractual agreement or otherwise allowed by law.

180 (j)~~(k)~~ A person may not operate as a broker under a trade
181 name without causing the trade name to be noted in the records
182 of the commission and placed on the person's license, or so
183 operate as a member of a partnership or as a corporation or as
184 an officer or manager thereof, unless such partnership or
185 corporation is the holder of a valid current registration.

186 (k)~~(l)~~ A person may not knowingly conceal any information
187 relating to violations of this chapter.

188 (l)~~(m)~~ A person may not undertake to list or sell one or
189 more timeshare periods per year in one or more timeshare plans
190 on behalf of any number of persons without first being the
191 holder of a valid and current license as a broker or sales
192 associate pursuant to this chapter, except as provided in s.
193 475.011 and chapter 721.

194 (m)~~(n)~~ A broker or sales associate may not enter into any
195 listing or other agreement regarding her or his services in
196 connection with the resale of a timeshare period unless the
197 broker or sales associate fully and fairly discloses all
198 material aspects of the agreement to the owner of the timeshare
199 period. Further, a broker or sales associate may not use any
200 form of contract or purchase and sale agreement in connection
201 with the resale of a timeshare period unless the contract or
202 purchase and sale agreement fully and fairly discloses all
203 material aspects of the timeshare plan and the rights and

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204 obligations of both buyer and seller. The commission is
205 authorized to adopt rules pursuant to chapter 120 as necessary
206 to implement, enforce, and interpret this paragraph.

207 (n) ~~(e)~~ A person may not disseminate or cause to be
208 disseminated by any means any false or misleading information
209 for the purpose of offering for sale, or for the purpose of
210 causing or inducing any other person to purchase, lease, or
211 rent, real estate located in the state or for the purpose of
212 causing or inducing any other person to acquire an interest in
213 the title to real estate located in the state.

214 Section 5. Subsection (2) of section 477.0212, Florida
215 Statutes, is amended to read:

216 477.0212 Inactive status.—

217 (2) The board shall promulgate rules relating to licenses
218 which have become inactive and for the renewal of inactive
219 licenses. The board shall prescribe by rule a fee not to exceed
220 \$50 for the reactivation of an inactive license and a fee not to
221 exceed \$50 for the renewal of an inactive license. The board
222 shall also require a licensee to complete one renewal cycle of
223 continuing education requirements.

224 Section 6. Subsection (1) of section 477.0265, Florida
225 Statutes, is amended to read:

226 477.0265 Prohibited acts.—

227 (1) It is unlawful for any person to:

228 (a) Engage in the practice of cosmetology or a specialty
229 without an active license as a cosmetologist or registration as
230 a specialist issued by the department pursuant to the provisions
231 of this chapter.

232 (b) Own, operate, maintain, open, establish, conduct, or

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233 have charge of, either alone or with another person or persons,
234 a cosmetology salon or specialty salon:

235 1. Which is not licensed under the provisions of this
236 chapter; or

237 2. In which a person not licensed or registered as a
238 cosmetologist or a specialist is permitted to perform
239 cosmetology services or any specialty.

240 ~~(c) Engage in willful or repeated violations of this~~
241 ~~chapter or of any rule adopted by the board.~~

242 (c) ~~(d)~~ Permit an employed person to engage in the practice
243 of cosmetology or of a specialty unless such person holds a
244 valid, active license as a cosmetologist or registration as a
245 specialist.

246 (d) ~~(e)~~ Obtain or attempt to obtain a license or
247 registration for money, other than the required fee, or any
248 other thing of value or by fraudulent misrepresentations.

249 (e) ~~(f)~~ Use or attempt to use a license to practice
250 cosmetology or a registration to practice a specialty, which
251 license or registration is suspended or revoked.

252 (f) ~~(g)~~ Advertise or imply that skin care services or body
253 wrapping, as performed under this chapter, have any relationship
254 to the practice of massage therapy as defined in s. 480.033(3),
255 except those practices or activities defined in s. 477.013.

256 (g) ~~(h)~~ In the practice of cosmetology, use or possess a
257 cosmetic product containing a liquid nail monomer containing any
258 trace of methyl methacrylate (MMA).

259 Section 7. Subsection (1) of section 481.217, Florida
260 Statutes, is amended to read:

261 481.217 Inactive status.—

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262 (1) The board may prescribe by rule continuing education
263 requirements as a condition of reactivating a license. The rules
264 may not require more than one renewal cycle of continuing
265 education in order to reactive requirements for reactivating a
266 license for a registered architect or interior designer may not
267 exceed 12 contact hours for each year the license was inactive.
268 The minimum continuing education requirement for reactivating a
269 license for a registered interior designer shall be those of the
270 most recent biennium plus one half of the requirements in s.
271 481.215 for each year or part thereof during which the license
272 was inactive. The board may shall only approve continuing
273 education for an interior designer which that builds only upon
274 the basic knowledge of interior design.

275 Section 8. Subsection (1) of section 481.315, Florida
276 Statutes, is amended to read:

277 481.315 Inactive status.—

278 (1) A license that has become inactive or delinquent may be
279 reactivated under this section upon application to the
280 department and payment of any applicable biennial renewal or
281 delinquency fee, or both, and a reactivation fee. The board
282 shall also require a licensee to complete one renewal cycle of
283 continuing education requirements. ~~The board may prescribe by~~
284 ~~rule continuing education requirements as a condition of~~
285 ~~reactivating the license. The continuing education requirements~~
286 ~~for reactivating a license may not exceed 12 classroom hours for~~
287 ~~each year the license was inactive.~~

288 Section 9. Subsections (3) and (6) of section 489.116,
289 Florida Statutes, are amended to read:

290 489.116 Inactive and delinquent status; renewal and

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291 cancellation notices.—

292 (3) An inactive status certificateholder or registrant may
293 change to active status at any time, provided the
294 certificateholder or registrant meets all requirements for
295 active status, pays any additional licensure fees necessary to
296 equal those imposed on an active status certificateholder or
297 registrant, ~~and~~ pays any applicable late fees, and completes one
298 renewal cycle of continuing education requirements.

299 (6) An inactive certificateholder or registrant shall
300 complete one renewal cycle of ~~comply with the same~~ continuing
301 education requirements in order to reactive his or her
302 certification or registration, if any, that are imposed on an
303 ~~active status certificateholder or registrant.~~

304 Section 10. Subsection (1) of section 489.519, Florida
305 Statutes, is amended to read:

306 489.519 Inactive status.—

307 (1) A certificate or registration that has become inactive
308 may be reactivated under s. 489.517 upon application to the
309 department. The licensee must complete one renewal cycle of
310 continuing education requirements. ~~The board may prescribe, by~~
311 ~~rule, continuing education requirements as a condition of~~
312 ~~reactivating a certificate or registration. The continuing~~
313 ~~education requirements for reactivating a certificate or~~
314 ~~registration may not exceed 12 classroom hours for each year the~~
315 ~~certificate or registration was inactive.~~

316 Section 11. Effective July 1, 2014, paragraph (v) of
317 subsection (1) of section 475.611, Florida Statutes, as amended
318 by chapter 2010-84, Laws of Florida, is repealed.

319 Section 12. Notwithstanding the amendment made by this act

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320 to section 10 of chapter 2010-84, Laws of Florida, effective
321 upon this act becoming a law, paragraphs (b) and (c) of
322 subsection (1) of section 475.626, Florida Statutes, as amended
323 by chapter 2010-84, Laws of Florida, are repealed.

324 Section 13. Subsection (14) of section 475.624, Florida
325 Statutes, as amended by chapter 2010-84, Laws of Florida, is
326 amended to read:

327 475.624 Discipline of appraisers.—The board may deny an
328 application for registration or certification of an appraiser;
329 may investigate the actions of any appraiser registered,
330 licensed, or certified under this part; may reprimand or impose
331 an administrative fine not to exceed \$5,000 for each count or
332 separate offense against any such appraiser; and may revoke or
333 suspend, for a period not to exceed 10 years, the registration,
334 license, or certification of any such appraiser, or place any
335 such appraiser on probation, if the board finds that the
336 registered trainee, licensee, or certificateholder:

337 (14) Has violated any standard of professional practice,
338 including standards for the development or communication of a
339 real estate appraisal, as established by board rule ~~or other~~
340 ~~provision of the Uniform Standards of Professional Appraisal~~
341 ~~Practice.~~

342 Section 14. Section 475.628, Florida Statutes, is amended
343 to read:

344 475.628 Professional standards for appraisers registered,
345 licensed, or certified under this part.—Each appraiser
346 registered, licensed, or certified under this part shall comply
347 with the standards of professional practice as established by
348 board rules. The board shall adopt rules stating the standards

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349 of practice that meet or exceed nationally recognized standards
350 of appraisal practice, including the professional standards of
351 the Appraisal Foundation ~~Uniform Standards of Professional~~
352 ~~Appraisal Practice~~. Statements on appraisal standards which may
353 be issued for the purpose of clarification, interpretation,
354 explanation, or elaboration through the Appraisal Foundation
355 shall also be binding on any appraiser registered, licensed, or
356 certified under this part, upon adoption by board rule.

357 Section 15. Subsection (7) of section 509.032, Florida
358 Statutes, is amended to read:

359 509.032 Duties.—

360 (7) PREEMPTION AUTHORITY.—The regulation of public lodging
361 establishments and public food service establishments,
362 including, but not limited to, ~~the inspection of public lodging~~
363 ~~establishments and public food service establishments for~~
364 ~~compliance with the sanitation standards, inspections, adopted~~
365 ~~under this section, and the regulation of food safety protection~~
366 ~~standards for required training and testing of food service~~
367 ~~establishment personnel, and matters related to the nutritional~~
368 content and marketing of foods offered in such establishments
369 are preempted to the state. This subsection does not preempt the
370 authority of a local government or local enforcement district to
371 conduct inspections of public lodging and public food service
372 establishments for compliance with the Florida Building Code and
373 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
374 633.022.

375 Section 16. Subsection (1) of section 509.261, Florida
376 Statutes, is amended to read:

377 509.261 Revocation or suspension of licenses; fines;

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378 procedure.—

379 (1) Any public lodging establishment or public food service
380 establishment that has operated or is operating in violation of
381 this chapter or the rules of the division, operating without a
382 license, or operating with a suspended or revoked license may be
383 subject by the division to:

384 (a) Fines not to exceed \$1,000 per offense;

385 (b) Mandatory completion attendance, at personal expense,
386 of a remedial at-an educational program administered sponsored
387 by a food safety training program provider whose program been
388 approved by the division, as provided in s. 509.049 the
389 Hospitality Education Program; and

390 (c) The suspension, revocation, or refusal of a license
391 issued pursuant to this chapter.

392 Section 17. Effective upon this act becoming a law, section
393 10 of chapter 2010-84, Laws of Florida, is amended to read:

394 Section 10. This act shall take effect July 1, 2014 ~~2011~~.

395 Section 18. Except as otherwise expressly provided in this
396 act and except for this section, which shall take effect upon
397 this act becoming a law, this act shall take effect July 1,
398 2011.