

By Senator Jones

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1                   A bill to be entitled  
2           An act relating to the Department of Business and  
3           Professional Regulation; amending s. 210.01, F.S.;  
4           redefining the term "agent" as it relates to the  
5           cigarette tax, to conform to changes made by the act;  
6           amending s. 210.05, F.S.; deleting a provision that  
7           allows the cigarette tax to be paid by affixing a  
8           stamp insignia through a metering machine; amending s.  
9           210.07, F.S.; deleting provisions authorizing the use  
10          of metering machines; requiring retail dealers of  
11          cigarettes, rather than wholesale dealers, to affix to  
12          each such machine, in a conspicuous place, an  
13          identification sticker furnished by the Division of  
14          Alcoholic Beverages and Tobacco within the Department  
15          of Business and Professional Regulation; amending ss.  
16          210.11 and 210.12, F.S.; conforming provisions to  
17          changes made by the act; amending s. 210.15, F.S.;  
18          deleting a provision that prohibited the division from  
19          approving the use of meter machines to evidence the  
20          payment of the taxes on cigarettes except to qualified  
21          wholesale dealers; amending s. 210.18, F.S.;  
22          conforming provisions regarding penalties relating to  
23          the use of metering machines; amending s. 455.271,  
24          F.S.; deleting a provision that provides that a  
25          licensee of the department who changes from inactive  
26          to active status is not eligible to return to inactive  
27          status until the licensee thereafter completes a  
28          licensure cycle on active status; amending s. 475.02,  
29          F.S.; conforming a provision to changes made by the

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30 act; amending s. 475.180, F.S.; deleting a provision  
31 that requires an applicant for a real estate license  
32 who is not a resident of this state to file an  
33 irrevocable consent regarding lawsuits and actions  
34 commenced against the applicant; deleting provisions  
35 prescribing the method of service of process; amending  
36 s. 475.451, F.S.; deleting the requirement that an  
37 applicant to be chief administrator of a proprietary  
38 real estate school or state institution meet certain  
39 qualifications for licensure as a broker associate or  
40 sales associate and other minimal requirements;  
41 deleting the definition of the term "chief  
42 administrative person" as it relates to schools  
43 teaching real estate practice; repealing s.  
44 475.6235(7), F.S., relating to a nonresidential  
45 applicant's requirement to file an irrevocable consent  
46 regarding lawsuits and actions against an appraisal  
47 management company; amending s. 475.631, F.S.;  
48 deleting the provision that requires an applicant for  
49 licensure as an appraiser who is not a resident of  
50 this state to file an irrevocable consent regarding  
51 lawsuits and actions commenced against the applicant;  
52 deleting the method of service of process; repealing  
53 s. 476.124, F.S., relating to certain application  
54 requirements for licensing examinations in barbering;  
55 amending s. 561.23, F.S.; deleting the requirement  
56 that licenses issued under the Beverage Law be issued  
57 in duplicate; providing an effective date.

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

60  
61 Section 1. Subsection (9) of section 210.01, Florida  
62 Statutes, is amended to read:

63 210.01 Definitions.—When used in this part the following  
64 words shall have the meaning herein indicated:

65 (9) "Agent" means any person authorized by the Division of  
66 Alcoholic Beverages and Tobacco to purchase and affix adhesive  
67 ~~or meter~~ stamps under this part.

68 Section 2. Subsection (1) of section 210.05, Florida  
69 Statutes, is amended to read:

70 210.05 Preparation and sale of stamps; discount.—

71 (1) The tax imposed by this part shall be paid by affixing  
72 stamps in the manner herein set forth ~~or by affixing stamp~~  
73 ~~insignia through the device of metering machines authorized in~~  
74 ~~this part.~~

75 Section 3. Section 210.07, Florida Statutes, is amended to  
76 read:

77 210.07 ~~Metering~~ Machines.—

78 ~~(1)(a) The tax may also be paid through the use of~~  
79 ~~cigarette tax stamp insignia to be applied by the use of~~  
80 ~~metering machines. The division shall prescribe and promulgate~~  
81 ~~appropriate rules and regulations governing the use of metering~~  
82 ~~machines, the procedure for the payment of such cigarette taxes~~  
83 ~~through the use thereof, requiring adequate surety bonds of the~~  
84 ~~users thereof to assure the proper use of such machines and~~  
85 ~~payment of all cigarette taxes that might come due by the users~~  
86 ~~thereof, and all other rules and regulations necessary and~~  
87 ~~proper to govern the use of same.~~

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88           ~~(b) The provisions of s. 210.05(3)(a) and (b) shall be~~  
89 ~~applicable to cigarette taxes paid through the use of metering~~  
90 ~~machines.~~

91           ~~(2) All provisions of this part governing the use of~~  
92 ~~cigarette tax stamps, the compiling of records, the making of~~  
93 ~~reports, permits and revocation of permits, seizures and~~  
94 ~~forfeitures, penalties, and all other provisions pertaining to~~  
95 ~~the payment of cigarette taxes through the use of stamps, shall~~  
96 ~~likewise be applicable to the payment of said taxes through the~~  
97 ~~use of metering machines.~~

98           ~~(1)(3) Wholesale or~~ Retail dealers of cigarettes owning,  
99 leasing, furnishing, or operating cigarette vending machines  
100 shall affix to each such machine, in a conspicuous place, an  
101 identification sticker furnished by the division. Every sticker  
102 shall show the vending machine serial number and the name and  
103 address of the cigarette ~~wholesale or~~ retail dealer owning,  
104 leasing, furnishing, or operating the said vending machine.

105           ~~(2)(4) A person may not operate a~~ No vending machine ~~shall~~  
106 ~~be allowed to operate in the state unless that does not have~~  
107 ~~affixed thereto the identification sticker required by this~~  
108 ~~section is affixed to the vending machine. A person may not~~  
109 ~~operate a nor shall any vending machine be allowed to operate in~~  
110 ~~the state which that~~ which ~~that~~ does not display at all times at least one  
111 package of each brand of the packages located therein so the  
112 same are clearly visible and arranged in such a manner that the  
113 cigarette tax stamps ~~or meter impressions of stamps~~ affixed  
114 thereto are clearly visible. A ~~It shall be the duty of any~~  
115 person, firm, or corporation operating a cigarette vending  
116 machine in this state must ~~to~~ furnish to the division the

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117 location of the vending machine and ~~to~~ report within 30 days to  
118 the division any change of location of the vending machine.

119 Section 4. Section 210.11, Florida Statutes, is amended to  
120 read:

121 210.11 Refunds; sales of stamps and payment of tax.—  
122 Whenever any cigarettes upon which stamps have been placed, ~~or~~  
123 ~~upon which the tax has been paid by metering machine,~~ have been  
124 sold and shipped into another state for sale or use therein, or  
125 have become unfit for use and consumption or unsalable, or have  
126 been destroyed, the dealer involved shall be entitled to a  
127 refund or credit of the actual amount of the tax paid with  
128 respect to such cigarettes less any discount allowed by the  
129 division in the sale of the stamps ~~or payment of the tax by~~  
130 ~~metering machine,~~ upon receipt of satisfactory evidence of the  
131 dealer's right to receive such refund or credit, provided  
132 application for refund or credit is made within 9 months after  
133 ~~of~~ the date the cigarettes were shipped out of the state, became  
134 unfit, or were destroyed. Only the division shall sell, or offer  
135 for sale, any stamp or stamps issued under this part. The  
136 division may redeem unused stamps lawfully in the possession of  
137 any person. The division may prescribe necessary rules ~~and~~  
138 ~~regulations~~ concerning refunds, credits, sales of stamps, and  
139 redemptions under the provisions of this part. Appropriation is  
140 hereby made out of revenues collected under this part for  
141 payment of such allowances.

142 Section 5. Subsection (1) of section 210.12, Florida  
143 Statutes, is amended to read:

144 210.12 Seizures; forfeiture proceedings.—

145 (1) The state, acting by and through the division, may

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146 ~~shall be authorized and empowered to seize, confiscate, and~~  
147 ~~forfeit any cigarettes upon which taxes payable hereunder may be~~  
148 ~~unpaid or which ~~that~~ are otherwise held in violation of the~~  
149 ~~requirements of this chapter, and also any vending machine or~~  
150 ~~receptacle in which cigarettes upon which taxes have not been~~  
151 ~~paid are held for sale, or any vending machine that does not~~  
152 ~~have affixed thereto the identification sticker required by ~~the~~~~  
153 ~~~~provisions of s. 210.07, or that ~~which~~ does not display at all~~~~  
154 ~~times at least one package of each brand of cigarettes located~~  
155 ~~therein so the same is clearly visible and arranged in such a~~  
156 ~~manner that the cigarette tax stamp ~~or meter impression of the~~~~  
157 ~~~~stamp~~ affixed thereto is clearly visible. Such seizure may be~~  
158 ~~made by the division, its duly authorized representative, any~~  
159 ~~sheriff or deputy sheriff, or any police officer.~~

160 Section 6. Subsection (2) of section 210.15, Florida  
161 Statutes, is amended to read:

162 210.15 Permits.—

163 (2) The division may not furnish stamps ~~or approve the use~~  
164 ~~of meter machines~~ to evidence the payment of the taxes on  
165 cigarettes except to qualified wholesale dealers.

166 Section 7. Subsection (3) of section 210.18, Florida  
167 Statutes, is amended to read:

168 210.18 Penalties for tax evasion; reports by sheriffs.—

169 (3) Any person who falsely or fraudulently makes, forges,  
170 alters, or counterfeits any stamp ~~or impression die used in~~  
171 ~~meter machines~~ prescribed by the division under the provisions  
172 of this part; ~~or, with intent to evade taxes, jams, tampers~~  
173 ~~with, or alters such a machine;~~ or causes or procures to be  
174 falsely or fraudulently made, forged, altered, or counterfeited

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175 any such stamp ~~or die~~; or knowingly and willfully utters,  
176 purchases, passes or tenders as true any such false, altered, or  
177 counterfeited stamp ~~or die impression~~; or, with the intent to  
178 defraud the state, fails to comply with any other requirement of  
179 this part commits a felony of the third degree, punishable as  
180 provided in s. 775.082, s. 775.083, or s. 775.084.

181 Section 8. Subsection (2) of section 455.271, Florida  
182 Statutes, is amended to read:

183 455.271 Inactive and delinquent status.—

184 (2) Each board, or the department when there is no board,  
185 shall permit a licensee to choose, at the time of licensure  
186 renewal, an active or inactive status. ~~However, a licensee who~~  
187 ~~changes from inactive to active status is not eligible to return~~  
188 ~~to inactive status until the licensee thereafter completes a~~  
189 ~~licensure cycle on active status.~~

190 Section 9. Subsection (3) of section 475.02, Florida  
191 Statutes, is amended to read:

192 475.02 Florida Real Estate Commission.—

193 (3) Notwithstanding s. 112.313, any member of the  
194 commission who is a licensed real estate broker or sales  
195 associate and who holds an active real estate school permit,  
196 ~~chief administrator permit~~, school instructor permit, or any  
197 combination of such permits issued by the department, to the  
198 extent authorized pursuant to such permit, may offer, conduct,  
199 or teach any course prescribed or approved by the commission or  
200 the department.

201 Section 10. Subsection (2) of section 475.180, Florida  
202 Statutes, is amended to read:

203 475.180 Nonresident licenses.—

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204           ~~(2)(a) Any applicant who is not a resident of this state~~  
205 ~~shall file an irrevocable consent that suits and actions may be~~  
206 ~~commenced against her or him in any county of this state in~~  
207 ~~which a plaintiff having a cause of action or suit against her~~  
208 ~~or him resides, and that service of any process or pleading in~~  
209 ~~suits or actions against her or him may be made by delivering~~  
210 ~~the process or pleading to the director of the Division of Real~~  
211 ~~Estate by certified mail, return receipt requested, and also to~~  
212 ~~the licensee by registered mail addressed to the licensee at her~~  
213 ~~or his designated principal place of business. Service, when so~~  
214 ~~made, must be taken and held in all courts to be as valid and~~  
215 ~~binding upon the licensee as if made upon her or him in this~~  
216 ~~state within the jurisdiction of the court in which the suit or~~  
217 ~~action is filed. The irrevocable consent must be in a form~~  
218 ~~prescribed by the department and be acknowledged before a notary~~  
219 ~~public.~~

220           (a)~~(b)~~ Any resident licensee who becomes a nonresident  
221 shall, within 60 days, notify the commission of the change in  
222 residency and comply with nonresident requirements. Failure to  
223 notify and comply is a violation of the license law, subject to  
224 the penalties in s. 475.25.

225           (b)~~(e)~~ All nonresident applicants and licensees shall  
226 comply with all requirements of commission rules and this part.  
227 The commission may adopt rules necessary for the regulation of  
228 nonresident licensees.

229           Section 11. Subsection (2) of section 475.451, Florida  
230 Statutes, is amended to read:

231           475.451 Schools teaching real estate practice.—

232           (2) An applicant for a permit to operate a proprietary real



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233 ~~estate school, to be a chief administrator of a proprietary real~~  
234 ~~estate school or a state institution,~~ or to be an instructor for  
235 a proprietary real estate school or a state institution must  
236 meet the qualifications for practice set forth in s. 475.17(1)  
237 and the following minimal requirements:

238 (a) "School permitholder" means the individual who is  
239 responsible for directing the overall operation of a proprietary  
240 real estate school. A school permitholder must be the holder of  
241 a license as a broker, either active or voluntarily inactive, or  
242 must have passed an instructor's examination approved by the  
243 commission. A school permitholder must also meet the  
244 requirements of a school instructor if actively engaged in  
245 teaching.

246 ~~(b) "Chief administrative person" means the individual who~~  
247 ~~is responsible for the administration of the overall policies~~  
248 ~~and practices of the institution or proprietary real estate~~  
249 ~~school. A chief administrative person must also meet the~~  
250 ~~requirements of a school instructor if actively engaged in~~  
251 ~~teaching.~~

252 (b)(e) "School instructor" means an individual who  
253 instructs persons in the classroom in noncredit college courses  
254 in a college, university, or community college or courses in a  
255 career center or proprietary real estate school.

256 1. Before commencing to provide such instruction, the  
257 applicant must certify the applicant's competency and obtain an  
258 instructor permit by meeting one of the following requirements:

259 a. Hold a bachelor's degree in a business-related subject,  
260 such as real estate, finance, accounting, business  
261 administration, or its equivalent and hold a valid broker's

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262 license in this state.

263 b. Hold a bachelor's degree, have extensive real estate  
264 experience, as defined by rule, and hold a valid broker's  
265 license in this state.

266 c. Pass an instructor's examination approved by the  
267 commission.

268 2. Any requirement by the commission for a teaching  
269 demonstration or practical examination must apply to all school  
270 instructor applicants.

271 3. The department shall renew an instructor permit upon  
272 receipt of a renewal application and fee. The renewal  
273 application shall include proof that the permitholder has, since  
274 the issuance or renewal of the current permit, successfully  
275 completed a minimum of 7 classroom hours of instruction in real  
276 estate subjects or instructional techniques, as prescribed by  
277 the commission. The commission shall adopt rules providing for  
278 the renewal of instructor permits at least every 2 years. Any  
279 permit that ~~which~~ is not renewed at the end of the permit period  
280 established by the department ~~shall~~ automatically reverts ~~revert~~  
281 to involuntarily inactive status.

282  
283 The department may require an applicant to submit names of  
284 persons having knowledge concerning the applicant and the  
285 enterprise; may propound interrogatories to such persons and to  
286 the applicant concerning the character of the applicant,  
287 including the taking of fingerprints for processing through the  
288 Federal Bureau of Investigation; and shall make such  
289 investigation of the applicant or the school or institution as  
290 it may deem necessary to the granting of the permit. If an

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291 objection is filed, it shall be considered in the same manner as  
292 objections or administrative complaints against other applicants  
293 for licensure by the department.

294 Section 12. Subsection (7) of section 475.6235, Florida  
295 Statutes, is repealed.

296 Section 13. Subsection (2) of section 475.631, Florida  
297 Statutes, is amended to read:

298 475.631 Nonresident licenses and certifications.-

299 ~~(2) (a) An applicant who is not a resident of this state  
300 shall file an irrevocable consent that suits and actions may be  
301 commenced against her or him in any county of this state in  
302 which a plaintiff having a cause of action or suit against her  
303 or him resides and that service of any process or pleading in  
304 suits or actions against her or him may be made by delivering  
305 the process or pleading to the director of the Division of Real  
306 Estate by certified mail, return receipt requested, and also to  
307 the certified appraiser or licensee by registered mail addressed  
308 to the certified appraiser or licensee at her or his designated  
309 principal place of business. Service, when so made, must be  
310 taken and held in all courts to be as valid and binding upon the  
311 certified appraiser or licensee as if made upon her or him in  
312 this state within the jurisdiction of the court in which the  
313 suit or action is filed. The irrevocable consent must be in a  
314 form prescribed by the department and be acknowledged before a  
315 notary public.~~

316 (a) ~~(b)~~ Any resident state-certified appraiser who becomes a  
317 nonresident shall, within 60 days, notify the board of the  
318 change in residency and comply with nonresident requirements.  
319 Failure to notify and comply is a violation of the license law,

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320 subject to the penalties in s. 475.624.

321 (b)~~(e)~~ All nonresident applicants, certified appraisers,  
322 and licensees shall comply with all requirements of board rules  
323 and this part. The board may adopt rules pursuant to ss.  
324 120.536(1) and 120.54 necessary for the regulation of  
325 nonresident certified appraisers and licensees.

326 Section 14. Section 476.124, Florida Statutes, is repealed.

327 Section 15. Section 561.23, Florida Statutes, is amended to  
328 read:

329 561.23 License ~~issued in duplicate;~~ display.-

330 ~~(1) Licenses shall be issued in duplicate. The original~~  
331 ~~license shall be delivered to the licensee; and one copy shall~~  
332 ~~be retained by the division.~~

333 ~~(2)~~ All vendors licensed under the Beverage Law shall  
334 display their licenses in conspicuous places on their licensed  
335 premises.

336 Section 16. This act shall take effect upon becoming a law.