

**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 Budget Subcommittee on General Government Appropriations

**BILL:** CS/CS/SB 1252

**INTRODUCER:** Budget Subcommittee on General Government Appropriations; Regulated Industries Committee, and Senator Jones

**SUBJECT:** Business and Professional Regulation

**DATE:** February 28, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	Howard	DeLoach	BGA	Fav/CS
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

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

**I. Summary:**

This bill relates to the Department of Business and Professional Regulation (department). The bill revises the following provisions related to the department’s licensing processes and the requirements for the professions licensed by the department. The bill:

- Permit wholesale tobacco dealers to extend credit to retail dealers, and authorizes the Division of Alcoholic Beverage and Tobacco to suspend or deny the renewal of the tobacco permit of a retail dealer after the wholesale dealer submits proof to the division that the dealer has failed to satisfy a civil judgment for failure to pay for tobacco products purchased from a wholesale dealer. The permit would remain suspended until the retailer entered into to a payment plan or satisfied the civil judgment in full;
- Waives the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for military veterans who apply to the department for a license within 24 months of being honorably discharged from service;
- Authorizes the department to approve continuing education providers and courses without a review by the appropriate board if the provider or course application does not require expert review or denial;

- Authorizes the department, in lieu of a board, to approve applications for reinstatement of a void license if the department determines that the individual failed to comply due to illness or economic hardship;
- Permits continuing education instructors to complete their continuing education through distance learning;
- Revises the provisions related to the regulation of appraisal management companies banks, credit unions, or other lending institutions that own and operate an internal appraisal office, business unit, or department. This is consistent with the federal Dodd Frank Act, which exempts from state regulation financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution;
- Permits applicants for a real estate appraiser's certification to the results of national examinations required for the license that were obtained more than 24 month after the date of the examination;
- Prohibits appraisal management companies from requiring that appraisers agree to an indemnity agreement;
- Permits cosmetology applicants, if licensed in another state, to qualify for a license without having to submit proof of completing their required educational hours if the state's requirements include 1200 pre-licensure hours and passage of a written examination;
- Permits cosmetologists and specialists to perform cosmetology and specialty services at special events held outside of salons if they are employed by a licensed salon and appointments for such services are made through a licensed salon;
- Repeals the license requirement for glass and glazing contractors;
- Extends from November 1, 2005, to November 1, 2014, the period for registered contractors, who are limited to practicing within the county or counties in which they are registered, to qualify for state-wide certification; and
- Exempts amateur boxing, martial arts or kickboxing matches from the prohibition against blows to the head in such matches unless the match is sanctioned by an amateur sanctioning organization when the matches are conducted or sponsored by nonprofit schools or education programs, a company or detachment of the Florida National Guard or by the Fraternal Order of Police, and held in conjunction with a charitable event. This provision would take effect upon becoming law.

Except as otherwise provided as taking effect upon becoming law, this bill would take effect on October 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 210.16, 210.181, 455.213, 455.2179, 455.271, 455.273, 455.275, 475.451, 475.611, 475.6171, 475.6235, 475.6245, 477.019, 477.0263, 489.105, 489.107, 489.118, 489.141, and 548.007.

## **II. Present Situation:**

### **Department of Business and Professional Regulation**

The Department of Business and Professional Regulation (department) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional

Regulation.<sup>1</sup> The department is created in s. 20.165, F.S. Section 20.165(2), F.S., creates the following eleven divisions within the department:

- Division of Administration.
- Division of Alcoholic Beverages and Tobacco.
- Division of Certified Public Accounting.
- Division of Florida Condominiums, Timeshares, and Mobile Homes.
- Division of Hotels and Restaurants.
- Division of Pari-mutuel Wagering.
- Division of Professions.
- Division of Real Estate.
- Division of Regulation.
- Division of Technology.
- Division of Service Operations.

### **Professional Boards**

Section 20.165(4)(a), F.S., establishes the following boards and professions within the Division of Professions:

- Board of Architecture and Interior Design, created under part I of ch. 481, F.S.
- Florida Board of Auctioneers, created under part VI of ch. 468, F.S.
- Barbers' Board, created under ch. 476, F.S.
- Florida Building Code Administrators and Inspectors Board, created under part XII of ch. 468, F.S.
- Construction Industry Licensing Board, created under part I of ch. 489, F.S.
- Board of Cosmetology, created under ch. 477, F.S.
- Electrical Contractors' Licensing Board, created under part II of ch. 489, F.S.
- Board of Employee Leasing Companies, created under part XI of ch. 468, F.S.
- Board of Landscape Architecture, created under part II of ch. 481, F.S.
- Board of Pilot Commissioners, created under ch. 310, F.S.
- Board of Professional Engineers, created under ch. 471, F.S.
- Board of Professional Geologists, created under ch. 492, F.S.
- Board of Veterinary Medicine, created under ch. 474, F.S.
- Home Inspection Services Licensing Program, created under part XV of ch. 468, F.S.
- Mold-Related Services Licensing Program, created under part XVI of ch. 468, F.S.

The Pilot Rate Review Committee is established under the Board of Pilot Commissioners.<sup>2</sup> Section 20.165(4)(b), F.S., establishes the following board and commission within the Division of Real Estate:

- Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S.
- Florida Real Estate Commission, created under part I of ch. 475, F.S.

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<sup>1</sup> Chapter 93-220, L.O.F.

<sup>2</sup> Section 310.151, F.S.

Section 20.165(4)(c), F.S., establishes the Board of Accountancy, created under ch. 473, F.S., within the Division of Certified Public Accounting.

The Florida State Boxing Commission<sup>3</sup> and the Regulatory Council of Community Managers<sup>4</sup> are also housed within the department.

The department also has regulatory oversight responsibilities over the following professions:

- Child labor under part I of ch. 450, F.S.
- Farm labor contractors under part III of ch. 450, F.S.
- Talent agencies under part VII of ch. 468, F.S.

In addition to administering the professional boards, the department processes applications for licensure and license renewal. The department also receives and investigates complaints made against licensees and, if necessary, brings administrative charges.

Chapter 455, F.S., provides the general powers of the department and sets forth the procedural and administrative frame-work for all of the professional boards housed under the department, the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

### **Regulation of Tobacco**

The Division of Alcoholic Beverages and Tobacco (division) in the department is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of tobacco products and alcoholic beverages.<sup>5</sup>

Chapters 210, 386, and 569, F.S., provide the regulatory and tax structure for tobacco sales. Part I of ch. 210, F.S., provides for the taxation of cigarettes. Part II of ch. 210, F.S., provides for the taxation of other tobacco products. Cigarettes are taxed in a different manner than other tobacco products and cigars are not subject to an excise tax. Tobacco products, cigars, and cigarettes are subject to the sales tax.

Section 210.01(6), F.S., defines “wholesale dealer” to mean “any person located inside or outside this state who sells cigarettes to retail dealers or other persons for purposes of resale only.”

Section 210.01(7), F.S., defines “retail dealer” means any person located inside or outside this state other than a wholesale dealer engaged in the business of selling cigarettes.”

Section 210.01(21), F.S., defines “manufacturer” to mean “any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 that manufactures, fabricates, assembles, processes, or labels a finished cigarette.”

Part II of ch. 210, F.S., defines “tobacco products” to mean loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos;

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<sup>3</sup> Section 548.003, F.S.

<sup>4</sup> Section 468.4315, F.S.

<sup>5</sup> S. 561.02, F.S.

shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but “tobacco products” does not include cigarettes, as defined by s. 210.01(1), F.S., or cigars.

Section 210.01(1), F.S., defines “cigarette” to mean any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.

### **Continuing Education Providers**

Section 455.2179, F.S., provides for the approval of continuing education providers by the boards, or the department if there is no board. The department must forward applications for continuing education providers and courses to the appropriate licensing board. Current law does not permit the department to approve providers or courses without board review.

### **Inactive and Delinquent Status**

Section 455.271, F.S., permits the boards, or the department if there is no board, to reinstate a voided license if the licensee has made a good faith effort to comply with licensure requirements and was unable to comply because of illness or unusual hardship. According to the department, the most common basis for requesting reinstatement of a void license is economic hardship.

### **Renewal and Cancellation Notices**

Section 455.273, F.S., requires the department to mail renewal and cancellation notices to licensees’ last known addresses of record at least 90 days prior to expiration or cancellation of the license. Section 455.273(2), F.S., requires the department to include a conspicuous statement in each renewal and cancellation notice stating that, if a licensee remains on inactive status for more than two consecutive licensure cycles, the licensee may be required to sit for a special purpose examination or other reactivation requirements prior to reactivation of their license.

Section 455.275, F.S., requires licensees to provide the department with written notification of their current mailing address and place of practice. The department must mail, to the licensee’s last known address of record, notices and official communications to the licensees, except where service of process is required for disciplinary proceeding pursuant to s. 455.225, F.S.

### **Real Estate Schools-Distance Learning**

Section 475.17(2)(a)2., F.S., authorizes the Florida Real Estate Commission to approve distance learning courses as an option to classroom hours as satisfactory completion continuing education requirements. Real estate schools have the option of providing classroom courses, distance learning courses, or both. A satisfactory completion of a distance learning course must require the satisfactory completion of a timed distance learning course examination. Such examination does not need to be monitored or given at a centralized location.

### **Appraisal Management Companies**

Individual real estate appraisers are regulated under part II of ch. 475, F.S., by the Florida Real Estate Appraisal Board within the department. Section 475.6235, F.S., requires the registration of Appraisal Management Companies.

“Appraisal management company,” is defined in s. 475.611(1)(c), F.S., to mean a person<sup>6</sup> who performs appraisal management services.

The term “appraisal management services” is defined in s.475.611(1)(d), F.S., to mean the coordination or management of appraisal services for compensation by:

1. Employing, contracting with, or otherwise retaining one or more appraisers to perform appraisal services for a client; or
2. Acting as a broker or intermediary between a client and one or more appraisers to facilitate the client’s employing, contracting with, or otherwise retaining the appraisers.

Section 475.6235(1), F.S., provides that a person may not engage in appraisal services for compensation or advertise themselves as an appraisal management company or use the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or any abbreviation or words to that effect, unless the person is registered with the department as an appraisal management. A person may not engage in appraisal management services for compensation in this state, advertise or represent herself or himself as an appraisal management company, or company under this section.

Employees of the appraisal management company are not required to obtain a separate registration.

The “Dodd-Frank Wall Street Reform and Consumer Protection Act (Frank-Dodd Act)”<sup>7</sup> permits states to regulate appraisal management companies. However, an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency is not be required to register with a state.<sup>8</sup>

### **Cosmetology**

Section 477.013(4), F.S., defines the term “cosmetology” to mean:

the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Section 477.0135, F.S., provides several exceptions to the requirement of a cosmetology license. Section 477.0135(1)(f), F.S., provides an exemption for the cosmetology license requirement for “persons whose practice is limited to the application of cosmetic products to another person in connection with the sale, or attempted sale, of such products at retail without compensation from such other person other than the regular retail price of such merchandise.”

<sup>6</sup> Section 1.01(3), F.S., defines the word “person” to include “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

<sup>7</sup> “Dodd-Frank Wall Street Reform and Consumer Protection Act” Pub. L. 111-203 (2010).

<sup>8</sup> *Id.* at s. 1473.

Section 477.0135(5), F.S., provides that a cosmetology “license is not required of any individual providing makeup, special effects, or cosmetology services to an actor, stunt person, musician, extra, or other talent during a production recognized by the Office of Film and Entertainment as a qualified production” as defined in s. 288.1254(1), F.S. These services are not required to be performed in a licensed salon. However, these persons may not provide such services to the general public without a license.

Section 477.0135(6), F.S., also provides a license exemption for makeup or special effects services provided in a theme park or entertainment complex, as defined in s. 509.013(9), F.S., to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects services to the general public. It appears that the exemption for makeup or special effects services to the general public is limited to those provided in the theme parks.

Section 477.019, F.S., permits cosmetologists who are licensed in another state to receive a Florida license if the license qualifications in the other state are similar to, equivalent to, or greater than the qualifications required in this state. The Florida qualifications include proof of passing a written examination; and completion of 1200 educational hours.<sup>9</sup> According to the department, individuals who have been practicing cosmetology services in another state for many years have difficulty providing proof of the completion of the 1200 educational hours. Many times this is because the other state does not retain the records for an extended period of time. In Florida, the Department of State Division of Library Services is in charge of the preservation of public records.<sup>10</sup> The division is authorized to adopt rules for the retention and disposal of public records.<sup>11</sup>

Section 477.0263, F.S., provides that all cosmetology services must be performed in a licensed salon, except when services are performed in a residence, nursing home or hospital because the client is too ill to travel to a licensed salon, or when services are provided in connection with the motion picture, fashion photography, theatrical, or television industry; or at a photography studio salon, manufacturer’s trade show demonstration; or an educational seminar.

### **Construction Contracting**

The Construction Industry Licensing Board (CILB) is responsible for the licensure and regulation under part I of ch. 489, F.S., of construction contractors. Construction contractors in Florida must be certified or registered before commencing business as a contractor.<sup>12</sup> Certification means that the contractor is licensed by the state to contract statewide.<sup>13</sup> Alternatively, a contractor may register with the state to perform construction services only within the limited geographic confines of the local jurisdiction in which the registered contractor has been licensed by the local jurisdiction.<sup>14</sup>

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<sup>9</sup> See s. 477.019, F.S.

<sup>10</sup> See s. 257.35, F.S.

<sup>11</sup> See s. 257.36(6), F.S.

<sup>12</sup> Section 489.113(2), F.S.

<sup>13</sup> Section 489.113(1), F.S.

<sup>14</sup> Section 489.117(1), F.S.

A state certification or registration is required for persons who perform the following categories of construction services: general contractors, building contractors, residential contractors, sheet metal contractors, roofing contractors, air-conditioning contractors, mechanical contractors, swimming pool/spa, plumbing contractors, underground utility and excavation contractors, solar contractors, pollutant storage systems contractors, and glass and glazing contractors.<sup>15</sup>

Section 489.118, F.S., permits registered contractors to receive a state-wide certification without taking the state licensure examination if they meet the specified criteria, including holding a current, valid registration, passing a written examination that the board finds is substantially similar to the examination required to be licensed as a certified contractor, has at least five years of experience, has not had a contractor's license revoked, and is in compliance with the insurance and financial responsibility requirements in s. 489.115(5), F.S. To qualify for certification, registered contractors must have applied to the department by November 1, 2005.

### **Glass and Glazing Contractors**

Section 489.105(3)(q), F.S., includes glass and glazing contractors within the Division II contractor classification. This classification requires that glass and glazing contractors must be licensed by the CILB, this license requirement includes pre-licensure qualification requirements that include experience, education, and/or continuing education requirements. This provision was added by s. 14, ch. 2011-222, L.O.F. Prior to last year, glass and glazing contractors could operate at the local level without being licensed depending on the local licensing requirements. These contractors could elect to be licensed state-wide by becoming certified and meeting the state experience and examination requirements. Many jurisdictions did not license glass and glazing contractors at the local level.

### **Pugilistic Exhibitions**

Chapter 548, F.S., provides for the licensure and regulation of professional and amateur boxing, kickboxing, and mixed martial arts by the Florida State Boxing Commission. Section 548.006(3), F.S., provides the Florida State Boxing Commission exclusive jurisdiction for the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for boxing and kickboxing matches held in the state. This jurisdiction does not extend to amateur sanctioning organizations for mixed martial arts.

Section 548.0065, F.S., requires amateur sanctioning organizations to notify the department of upcoming amateur matches held in the state.

Section 548.007, F.S., provides that, with the exception of s. 548.008, F.S., the provisions of ch. 548, F.S., do not apply to matches conducted or sponsored by:

- A bona fide nonprofit boxing, kickboxing, or martial arts school or education program. The match must be limited to participants who are students of the school or instructional program;
- Any company or detachment of the Florida National Guard; or
- The Fraternal Order of Police, if the match is limited to amateur participants and is held in conjunction with a charitable event.

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<sup>15</sup> See s. 489.105(3)(a)-(q), F.S.



Section 548.008(1), F.S., prohibits matches involving amateurs that utilize, but are not necessarily limited to, strikes or blows to the head unless the match is sanctioned and supervised by an amateur sanctioning organization approved by the Florida State Boxing Commission.

Section 548.008(2), F.S., provides that no professional match may be held in this state unless it meets the requirements for holding the match as provided in ch. 548, F.S., and the rules adopted by the Florida State Boxing Commission.

Section 548.008(3)(a), F.S., provides that any person who participates in a match prohibited under this section, knowing the match is prohibited, commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.<sup>16</sup>

Section 548.008(3)(b), F.S., provides that any person who holds, promotes, or sponsors a match prohibited under this section, commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.<sup>17</sup>

The commission's primary duty is to ensure that all matches comply with the laws and rules and that the matches are competitive and physically safe for the participants. The commission licenses 1,655 professionals per year and processes approximately 71 live event permits annually. In addition to its daily processing of applications for licensure and the approval or denial of live event permits, the commission coordinates live event schedules and evaluates proposed fight cards. It also evaluates the assignment of officials (referees, judges, physicians) and event staff (event coordinator, chief inspector, inspectors, and timekeeper).

A department representative or commission representative is assigned to attend each official weigh-in and live event. This person attends the official weigh-in during which the application is processed, license fees are collected, the results of participant medical examinations are verified, pre-fight physicals are conducted by physicians, the promoter/participant contracts are collected, participants' weights are recorded, officials' (referee, judges, and physicians) pay from the promoter are collected, and the required accidental death and health insurance for each of the participants is verified. The department or commission representative is also accompanied to the event by department's OPS event staff, i.e., the event coordinator, timekeeper, and inspector. These OPS event staff and the representative from the department or commission also inspect the ring for safety standards, verify that emergency medical personnel and an ambulance are on-site, assign inspectors to each of the fighters, conduct match timekeeping, verify assigned officials are present, distribute officials' pay following the event, and conduct participant drug tests, if necessary.<sup>18</sup>

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<sup>16</sup> Section 775.082, F.S., provides that the penalty for misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083, F.S. provides that the penalty for misdemeanor of the second degree is punishable by a fine not to exceed \$500.

<sup>17</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not exceeding five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not exceeding \$5,000. Section 775.084, F.S., provides increased penalties for habitual offenders.

<sup>18</sup> For a more detailed description of the State Boxing Commission's duties, see *2012 Legislative Analysis for Amendment to SB 1252 Relating to Taxation of Closed Circuit Television*, Office of Legislative Affairs, Department of Business and Professional Regulation (January 20, 2012).

### **III. Effect of Proposed Changes:**

#### **Tobacco Regulation**

The amendment creates a new subsection (4) of s. 210.16, F.S., to permit wholesale tobacco dealers to extend credit to retail dealers. It authorizes the Division of Alcoholic Beverage and Tobacco (division) to suspend or deny the renewal of the tobacco permit of a retail dealer after the wholesale dealer submits proof to the division that the dealer has failed to satisfy a civil judgment for failure to pay for tobacco products purchased from a wholesale dealer. The permit would remain suspended until the retailer entered into a payment plan or satisfied the civil judgment in full.

It also amends s. 210.181, F.S., to correct a cross-reference necessitated by the amendment to s. 210.16, F.S.

#### **Military Veterans-Fee Waiver**

The bill creates s. 455.213(12), F.S., to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran who applies to the department for a license within 24 months of being honorably discharged.

#### **Continuing Education Providers**

The bill amends s. 455.2179, F.S., to allow the department to approve continuing education providers and courses without board review if the provider or course application does not require expert review or denial. Any application that requires expert review by a board must be sent to the appropriate board for review and approval or denial determination. The bill also provides that only the department can determine the content of applications and supporting documents that are submitted for approval.

#### **Inactive and Delinquent Status**

The bill amends s. 455.271(6)(b), F.S., to department, in its discretion, the authority to approve applications for reinstatement of a void license if the department determines that the individual failed to comply due to illness or economic hardship. It deletes references to the department's boards to, in effect, place this authority exclusively with the department. This provision is also amended to replace the reference to "unusual hardship" hardship with the term "economic hardship."

#### **Renewal and Cancellation Notices**

The bill amends s. 455.273, F.S., to permit the department to forward renewal and cancellation notices to a licensee's email address of record.

The bill amends s. 455.273, F.S., to repeal the requirement that each licensure renewal and cancellation notification must provide a conspicuous statement that a licensee may be required to complete a special purposes examination or other reactivation requirement prior to activating a license.

The bill amends s. 455.275, F. S., to require licensees to update the department with their available email address in addition to their mailing address and place of employment. It permits the department to serve required notices by email, except where service of process is required for disciplinary proceeding pursuant to s. 455.225, F.S.

#### **Real Estate Schools-Distance Learning**

The bill amends s. 475.451, F.S., to permit continuing education instructors to complete their continuing education through either classroom or distance learning. It also provides that real estate schools may offer any continuing education course through distance learning if the course complies with s. 475.17(2), F.S., which authorizes the Florida Real Estate Commission to approve distance learning courses.

#### **Appraisers and Appraisal Management Company**

The bill amends s. 475.611(1)(c), F.S., to revise the definition of “appraisal management company” by incorporating the provision from s. 475.6235(1), F.S., which prohibits the use of the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or other terms unless the person is registered with the department as an appraisal management company.

The bill also amends s. 475.611(1)(d), F.S., to reference “licensed or certified appraisers” instead of “appraisers.”

Section 475.611(1)(y), F.S, defines the term “subsidiary” to mean an organization that is controlled by a financial institution that is regulated by a federal agency.

The bill amends s. 475.6171(4), F.S., to repeal the provision that no certifications as an appraiser shall be issued based upon the results of national examinations that are obtained more than 24 months after the date of the examination.

The bill amends s. 475.6235(1), F.S., to delete the prohibition against the use of the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or other terms unless the person is registered with the department as an appraisal management company. This prohibition is added by the bill to the definition of the term “appraisal management company” in s. 475.611(1)(c), F.S.

The bill also creates s. 475.6235(9), F.S., exempts a financial institution, as defined in s. 655.005, F.S., from the provisions of this section if financial institution owns or operates an internal appraiser office, business, unit, or department, or an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a Federal agency. This would conform the provision to the exemption from state regulation provided for bank-owned appraisal management companies as provided by the Dodd Frank Act.<sup>19</sup>

The bill amends s. 475.6245, F.S., to prohibit appraisal management companies from requiring that appraisers agree to hold harmless from the liability the appraisal management company or its

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<sup>19</sup> *Supra* at n. 6.

owners, agents, employees, or independent contractors for services performed by the management company and not the appraiser.

### **Cosmetology**

The bill amends s. 477.019(6), F.S., to permit cosmetology applicants who are licensed in another state to qualify for a license without having to submit proof of completing their required 1200 educational hours if the state's requirements include 1200 pre-licensure hours and passage of a written examination.

The bill amends s. 477.0263, F. S., to provide an exception from the requirement that all cosmetology services be performed in a licensed salon. The bill permits licensed cosmetologists and specialists to perform cosmetology and specialty services at special events held outside of salons if they are employed by a licensed salon and appointments for such services are made through a licensed salon. The term "special events" is not defined.

### **Construction Contracting**

The bill amends s. 489.105(3), F.S., to repeal the license classification for glass and glazing contractors in paragraph (q). This would permit glass and glazing contractors to do business without obtaining a state license.

The bill amends ss. 489.107(4) and 489.1412(2)(g), F.S., to correct cross-references necessitated by repeal of the glass and glazers provision in s. 489.105(3)(q), F.S.

The bill amends s. 489.118, F. S., to extend the grandfather period for registered contractors to qualify for certification from November 1, 2005 to November 1, 2014.

### **Amateur Pugilistic Matches**

The bill amends s. 548.007, F.S., to provide an exemption from all of ch. 489, F.S., for amateur boxing, martial arts or kickboxing matches that are conducted or sponsored by nonprofit schools or education programs, a company or detachment of the Florida National Guard or by the Fraternal Order of Police, if held in conjunction with a charitable event. Current law exempts such matches to the requirements of s. 548.008, F.S. Section 548.008, F.S., prohibits amateur matches unless sanctioned by an amateur sanctioning organization.

This provision would take effect upon becoming law.

### **Effective Date**

Except as otherwise provided as taking effect upon becoming law, this bill would take effect on October 1, 2012.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill will make it less burdensome for current and future licensees to obtain and maintain licensure with the Department of Business and Professional Regulations. The bill will also make it less burdensome for former U.S. military personnel to obtain licensure with the Department.

Glass and glazing contractors would not be required to obtain a Division II contractor's license from the Construction Industry Licensing Board.

C. Government Sector Impact:

The department estimates that the bill will increase revenues to the Professional Regulation Trust Fund by \$573,009 in FY 2012-2013 and \$286,709 in FY 2013-2014, as a result of re-opening the time period registered contractors may grandfather their registered contractors' license to a state certified contractors' licenses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Budget Subcommittee on General Government Appropriations on February 28, 2012:**

The committee substitute for committee substitute differs from the committee substitute by the Regulated Industries Committee as follows:

- It creates a new subsection (4) of s. 210.16, F.S., to permit wholesale tobacco dealers to extend credit to retail dealers, and to authorize the Division of Alcoholic Beverage and Tobacco to suspend or deny the renewal of the tobacco permit of a retail dealer after the wholesale dealer submits proof to the division that the dealer has failed to satisfy a civil judgment for failure to pay for tobacco products purchased from a wholesale dealer. The permit would remain suspended until the retailer entered into a payment plan or satisfied the civil judgment in full. It also amends s. 210.181, F.S., to correct a cross-reference necessitated by the amendment to s. 210.16, F.S.
- It does not amend s. 476.188, F.S., to permit barbers to provide barbering services outside of a licensed barbershop, include a consumer's place of employment, and to delete the limitation on providing barbering services at a residence may only when the client is in ill health and unable to go to the barbershop.
- It does not amend s. 476.0135(7), F.S., to provide that a cosmetology license is not required to provide makeup services to the general public.
- It amends s. 489.105(3), F.S., to repeal the license classification for glass and glazing contractors in paragraph (q). It also amends ss. 489.107(4) and 489.1412(2)(g), F.S., to correct cross-references necessitated by repeal of the glass and glazers provision in s. 489.105(3)(q), F.S.
- It does not amend s. 548.061, F.S., to limit the five percent tax on closed circuit television broadcasts of pugilistic matches to matches originating within this state and deletes the tax for matches that originate out-of-state.
- It amends s. 548.007, to exempt amateur boxing, martial arts or kickboxing matches from the prohibition against blows to the head in such matches unless the match is sanctioned by an amateur sanctioning organization when the matches are conducted or sponsored by nonprofit schools or education programs, a company or detachment of the Florida National Guard or by the Fraternal Order of Police, and held in conjunction with a charitable event.

**CS by Regulated Industries on February 2, 2012:**

The committee substitute (CS) does not amend s. 20.165(2), F.S., to create the Florida State Boxing Commission as a division within the Department of Business and Professional Regulation (department), and to provide that the Child Labor Program and the Farm Labor Program are established under the Division of Regulation.

The CS does not amend s. 455.01, F.S., to include activities or occupations regulated by the Florida State Boxing Commission within the definition of the term "profession."

The CS amends s. 475.611(1)(y), F.S, to define the term "subsidiary."

The CS creates s. 475.6235(9), F.S., to include, within the exemption in this subsection, financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution. It uses the term "financial institution" by referencing the definition in s. 655.005, F.S., in place of the terms "bank, credit union, or other lending institution".

The CS does not amend s. 477.019, F.S., to permit applicants for licensure by endorsement to substitute work experience for educational hours when applying for a licensure as provided by rule of the Board of Cosmetology. The CS amends s. 477.019(6), F.S., to permit cosmetology applicants, if licensed in another state, to qualify for a license without having to submit proof of completing their required educational hours if the state's requirements include 1200 pre-licensure hours and passage of a written examination.

The CS amends s. 548.061, F.S., relating to the tax on matches telecast by closed circuit.

The CS does not amend s. 548.006 (3), F.S., to give the Florida State Boxing Commission exclusive jurisdiction over all amateur mixed martial arts sanctioning organizations.

The CS does not amend s. 548.0065, F.S., to authorize the Florida State Boxing Commission to impose an advance notice requirement on amateur sanctioning organizations.

The CS does not amend s. 548.008(3) (a), F.S., to increase the penalty for participating in a prohibited match.

**B. Amendments:**

None.