

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 Committee on Appropriations

BILL: CS/CS/SB 1050

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Regulated Industries Committee; and Senator Brandes

SUBJECT: Department of Business and Professional Regulation

DATE: February 29, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Caldwell</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1050 eliminates current business license requirements for certain regulated professions, but licensure requirements for individuals engaged in those professions remain intact. The affected professions are architects, interior designers, asbestos abatement consultants and contractors, and landscape architects.

The bill allows certain activities to be practiced without licensure, including nail polishing, low voltage landscape lighting, and low voltage communication cabling. The bill eliminates licensure and registration requirements for athlete agents, talent agencies, and labor organizations. Licensure of branch offices for yacht and ship brokers is also eliminated.

The bill amends the remedies available to address prohibited conduct by athlete agents to civil causes of action available to colleges and universities, rather than penalties and fines imposed by the Department of Business and Professional Regulation (DBPR or department).

The bill deletes provisions of current law that require condominium, timeshare, and homeowner associations of fewer than 50 units or parcels, regardless of the association's annual revenues, to prepare a report of cash receipts and expenditures.

The bill has a significant negative fiscal impact to the department and to the Service Charge to General Revenue (see Section V, Fiscal Impact Statement).

II. Present Situation:

Section 20.165, F.S., establishes the organizational structure of the Department of Business and Professional Regulation (DBPR or department). There are 12 divisions, which include:

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

There are 15 boards and programs established within the Division of Professions,¹ two boards within the Division of Real Estate,² and one board within the Division of Certified Public Accounting.³ The Florida State Boxing Commission (boxing commission) is also assigned to the DBPR for administrative and fiscal accountability purposes only.⁴ The department also administers the Child Labor Law and Farm Labor Contractor Registration Law pursuant to parts I and III of ch. 450, F.S.

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”⁵

Regulation of professions is limited under Florida law, to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;

¹ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers’ Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors’ Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

² See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

³ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

⁴ Section 548.003(1), F.S.

⁵ Section 455.01(6), F.S.

⁶ Section 455.201(2), F.S.

- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁷

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.⁸

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the department as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.⁹ When a person is authorized to engage in a profession or occupation in Florida, the department issues a “permit, registration, certificate, or license” to the licensee.¹⁰

In Fiscal Year 2014-2015, the Division of Accountancy had 38,678 licensees, the Division of Real Estate had 330,565 licensees, and the Board of Professional Engineers had 57,756 licensees.¹¹ In Fiscal Year 2014-2015, there were 415,207 licensees in the Division of Professions,¹² including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Landscape architects;
- Harbor pilots;
- Mold-related services;
- Talent agencies; and

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ *See* s. 455.203, F.S. The department must also provide legal counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing department staff counsel. *See* s. 455.221(1), F.S.

¹⁰ Section 455.01(4) and (5), F.S.

¹¹ *See* Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2014-2015*, <http://www.myfloridalicense.com/dbpr/os/documents/FY2014-2015AnnualReportFinal.pdf> (last accessed Jan. 31, 2016) at 22.

¹² Of the total 415,207 licensees in the Division of Professions, 22,566 are inactive. *Id.* at 22.

- Veterinarians.¹³

Sections 455.203 and 455.213, F.S., establish general licensing provisions for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the department must determine by rule the amount of license fees for its profession, based on estimates of the required revenue to implement regulatory laws.¹⁴

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.¹⁵ The FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowner's Associations (jurisdiction limited to arbitration of election and recall disputes).¹⁶

Yacht and Ship Broker Branch Office Licenses

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the FCTMH, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.¹⁷

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.¹⁸ "Each [yacht or ship] broker must maintain a principle place of business in this state and may establish branch offices in the state. A separate license must be maintained for each branch office."¹⁹

Applicants for a branch office license and renewal pay a \$100 fee with a license renewal every two years.²⁰ There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

¹³ *Id.* at 13.

¹⁴ Section 455.219(1), F.S.

¹⁵ Department of Business and Professional Regulation, *Division of Florida condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html>, (last visited January 8, 2016).

¹⁶ *Id.*

¹⁷ Department of Business and Professional Regulation, *Yacht and ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/dbpr/lsc/YachtandShip.html>, (last visited on January 12, 2016).

¹⁸ Section 326.004(1), F.S.

¹⁹ Section 326.004(13), F.S.

²⁰ Rule 61B-60.002, F.A.C.

Labor Organizations

Chapter 447, F.S., governs the licensing and regulation of labor organizations, and related business agents in the state. The Division of Regulation within the DBPR oversees the licensing and regulation of labor organizations. The Division of Regulation processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the labor organization industry.

A labor organization is defined as “[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.”²¹

In Florida, all labor organizations are required to register with the department and all business agents of labor organizations must obtain a license.²² Business agents are defined as “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; and
- Soliciting or receiving from any employer any right or privilege for employees.”²³

Applicants for a business agent license shall pay \$25 fee for licensure and must meet a number of licensure requirements.²⁴ Labor organization applicants must pay an annual fee of \$1.²⁵

Talent Agencies

Chapter 468, Part VII, F.S., governs the licensing and regulation of talent agencies in the state. The Division of Professions within the DBPR oversees the licensing and regulation of talent agencies. The Division of Professions processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the talent agency industry.

Individuals are prohibited from owning, operating, soliciting business, or otherwise engaging in or carrying on the occupation of a talent agency in this state unless the person first obtains licensure for the talent agency.²⁶ A talent agency is defined as “[a]ny person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist.”²⁷

²¹ Section 447.02(1), F.S.

²² Section 447.04(2), F.S.

²³ Section 447.02(2), F.S.

²⁴ Section 447.04(2), F.S.

²⁵ Section 447.06(2), F.S.

²⁶ Section 468.403(1), F.S.

²⁷ Section 468.401, F.S.

To qualify for a talent agency license, the applicant must be of good moral character and shall show whether or not the agency, any person, or any owner of the agency is financially interested in any other business of like nature, and if so, shall specify the interests.²⁸

At the time of application, applicants for a talent agency license must pay an application fee of \$300, an unlicensed activity fee of \$5, and an initial licensure fee of \$200 if licensed after March 31 of any odd numbered year. Otherwise the initial license fee is \$400. Talent agency license holders must pay a biennial renewal fee of \$400.²⁹

Licensed talent agencies are required to:

- File an itemized schedule of maximum fees, charges, and commissions it intends to charge and collect for its services;³⁰
- Pay to the artist all money collected from an employer for the benefit of an artist within five business days after receipt of the money;³¹
- Display a copy of the license conspicuously in the place of business;³²
- File a bond with the department in the form of a surety for the penal sum of \$5,000, which may be drawn upon if a person is aggrieved by the misconduct of the talent agency;³³
- Maintain records including the application, registration, or contract of each artist, with additional information;³⁴
- Provide a copy of the contract to the artist within 24 hours of the contract's execution;³⁵ and
- Comply with the prohibited acts set forth in s. 468.412, F.S.

Licensed talent agencies are prohibited from:

- Charging the artist a registration fee;³⁶ and
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, and advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.³⁷

Section 468.415, F.S., provides prohibitions against sexual misconduct.

Section 468.413, F.S., provides criminal penalties for:

- Operating a talent agency without a license;
- Obtaining a license through misrepresentation;
- Assigning a license to another individual;
- Relocating a talent agency without notifying the department;
- Failing to provide information on an application regarding related businesses;

²⁸ Section 468.405, F.S.

²⁹ Rule 61-19.005, F.A.C.

³⁰ Section 468.406(1), F.S.

³¹ Section 468.406(2), F.S.

³² Section 468.407(2), F.S.

³³ Section 468.408, F.S.

³⁴ Section 468.409, F.S.

³⁵ Section 468.410(3), F.S.

³⁶ Section 468.410(1), F.S.

³⁷ Section 468.410(2), F.S.

- Failing to maintain records;
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop;
- Failing to provide a copy of the contract to the artist;
- Failing to maintain a record sheet; and
- Knowingly sending an artist to an employer the licensee knows to be in violation of the laws of Florida or of the United States.

Athlete Agents

Chapter 468, Part IX, F.S., governs the licensing and regulation of athlete agents in the state. The Division of Professions within the DBPR oversees the licensing and regulation of athlete agents. The Division of Professions processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the athlete agent industry.

Individuals are prohibited from practicing as an athlete agent in Florida without first being licensed as an athlete agent.³⁸ An athlete agent is defined as:

[A] person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation. This term includes all employees and other persons acting on behalf of an athlete agent who participate in the activities included under this subsection. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.³⁹

In order to be licensed, an applicant must be at least 18 years of age, of good moral character, and have completed the application form and remitted an application fee of \$500, a licensure fee of \$375, and an unlicensed activity fee of \$5. Athlete agent license holders must pay a biennial renewal fee of \$220.⁴⁰

Licensed athlete agents are required to:

- Comply with specific contract requirements;⁴¹
- Comply with the prohibited acts;⁴² and

³⁸ Section 468.453(1), F.S.

³⁹ Section 468.452(2), F.S.

⁴⁰ Rule 61-24.004, F.A.C.

⁴¹ Section 468.454, F.S.

⁴² Section 468.456, F.S.

- Maintain financial and business records.⁴³

Section 468.45615, F.S., provides criminal penalties for a licensed athlete agent who provides anything of value to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete.⁴⁴

Asbestos Abatement Business Organization

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement in the state. The Asbestos Licensing Unit is a program located under the Division of Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect, professional engineer, professional geologist, is a diplomat of the American Board of Industrial Hygiene, or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.⁴⁵

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.⁴⁶
A person must be a licensed asbestos consultant in order to:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; or
- Prepare asbestos abatement specifications.⁴⁷

If an applicant for licensure as an asbestos consultant or contractor proposed to engage in consulting or contracting as a business organization, such as a corporation or other legal entity, or in any name other than the applicant's legal name, the business organization must be licensed as an asbestos abatement business. Each licensed business organization must have a qualifying agent that is licensed under ch 469, F.S.,⁴⁸ and that is qualified to supervise and is financially responsible. If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination, and may not engage in the practice of asbestos abatement until it is qualified.

Applicants for an asbestos abatement business license pay an application fee of \$300, an unlicensed activity fee of \$5, an initial licensure fee of \$250, and a biennial renewal fee of

⁴³ Section 468.4565, F.S.

⁴⁴ Section. 468.456(1)(f), F.S.

⁴⁵ Florida Department of Business and Professional Regulation, *2016 Legislative Bill Analysis, Senate Bill 1050*, p. 2, (December 16, 2015).

⁴⁶ Section 469.003(3), F.S.

⁴⁷ Section 469.003, F.S.

⁴⁸ Section 469.006, F.S.

\$250.⁴⁹ There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

Nail Painting

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology is a board located within the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

Individuals are prohibited from providing manicures or pedicures in Florida without first being registered as a nail specialist, full specialist, or cosmetologist.

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]”⁵⁰ The term “specialty” is defined as “the practice of one or more of the following:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive;
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet;
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.”⁵¹

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology...”⁵² The term “cosmetology” is defined as “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.”⁵³

A nail specialist may complete manicures and pedicures. A full specialist may complete manicures, pedicures, and facials. Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.⁵⁴ All cosmetology and specialty salons are subject to inspection by the department.⁵⁵

⁴⁹ Rule 61E1-3.001, F.A.C.

⁵⁰ Section 477.013(5), F.S.

⁵¹ Section 477.013(6), F.S.

⁵² Section 477.013(3), F.S.

⁵³ Section 477.013(4), F.S.

⁵⁴ Section 477.0263, F.S.

⁵⁵ Section 477.025, F.S.

To qualify for a specialist license, the applicant must be at least 16 years old, obtain a certificate of completion from an approved specialty education program, and submit an application for registration with the department with the registration fee.⁵⁶

To qualify for a license as a cosmetologist, the applicant must be at least 16 years old, have received a high school diploma, have submitted an application with the applicable fee and examination fee, and have either a license in another state or country for at least one year, or have received 1,200 hours training including completing an education at an approved cosmetology school or program. The applicants must also pass all parts of the licensure examination.⁵⁷

The act of painting nails with fingernail polish falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails. Therefore, individuals seeking to add polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist. The department does not have a separate license for polishing nails.

Architecture Business or Interior Design Organization

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations in the state. The Board of Architecture and Interior Design is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

“The practice of or the offer to practice architecture or interior design by licensees through a corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of [ch. 481, Part I, F.S.].”⁵⁸ An architecture or interior design business corporation, limited liability company, or partnership, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.⁵⁹

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.⁶⁰ There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

⁵⁶ Section 477.0201, F.S.

⁵⁷ Section 477.019(2), F.S.

⁵⁸ Section 481.219(1), F.S.

⁵⁹ Section 481.219(2)-(3), F.S.

⁶⁰ Rules 61G1-17.001 and 61G1-17.002, F.A.C.

Landscape Architecture Business Organization

Chapter 481, Part II, F.S., governs the licensing and regulation of landscape architects and related business organizations in the state. The Board of Landscape Architecture is a board located within the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the landscape architecture industry.

A person may not knowingly practice landscape architecture unless the person holds a valid license issued pursuant to ch. 481, Part II, F.S.⁶¹ A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect;
- The corporation or partnership has been issued a certificate of authorization by the board.⁶²

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.⁶³ There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

Low Voltage Communication Cable

Chapter 489, Part II, F.S., governs the licensing and regulation of electrical contractors, alarm system contractors, and certain specialty contractors in the state. The Electrical Contractors' Licensing Board is a board located within the Division of Professions. The Electrical Contractors' Licensing Board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the electrical contracting industry.

The term "electrical contractor" is defined as:

[A] person who conducts business in the electrical trade field and who has the experience, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form, including the electrical installations and systems within plants and substations, all in compliance with applicable plans, specifications, codes, laws, and regulations. The term means any person, firm, or corporation that engages in the business of electrical contracting under an express or implied

⁶¹ Section 481.323(1)(a), F.S.

⁶² Section 481.319(1), F.S.

⁶³ Rule 61G10-12.002, F.A.C.

contract; or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of electrical contracting; or that does itself or by or through others engage in the business of electrical contracting.⁶⁴

The term “alarm system contractor” is defined as:

[A] person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including, but not limited to, all types of alarm systems for all purposes. This term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract; that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of alarm contracting; or that by itself or by or through others engages in the business of alarm contracting.⁶⁵

The term “specialty contractor” as referenced in ch. 489, Part II, F.S., is defined as:

[A] contractor whose scope of practice is limited to a specific segment of electrical or alarm system contracting established in a category adopted by board rule, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical advertising signs together with the interrelated parts and supports...⁶⁶

The Electrical Contractors’ Licensing Board created a “Limited Energy Systems” specialty, clarifying the scope of the specialty license to include “the installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, and fiber optics (transmission of light over stranded glass) or any part thereof not to exceed 98 volts, (RMS). The scope of work of this license does not include installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, that are part of an alarm system.”⁶⁷

The act of installing low voltage communication cabling currently falls under the scope of practice of a limited energy systems specialty license, electrical residential contractor license, and alarm systems contractor license. Therefore, at present an individual wishing to do so for compensation is required to obtain one of the listed licenses prior to completing the work.

⁶⁴ Section 489.505(12), F.S.

⁶⁵ Section 489.505(2), F.S.

⁶⁶ Section 489.505(19), F.S.

⁶⁷ Rule 61G6-7.001(4), F.A.C.

Section 489.503(14), F.S., provides an exemption from licensure requirements for the selling, installing, repairing, altering, adding, or designing of low voltage communication cabling by employees of cable or communication companies operating under a certificate issued under ch. 364 or ch. 610, F.S., or under a local franchise or right-of-way agreement.

Low-Voltage Landscape Lighting

The act of installing low voltage landscape lighting systems that plug into existing receptacles currently falls under the scope of practice of a limited energy systems specialty license, electrical residential contractor license, and alarm systems contractor license. Therefore, currently, an individual wishing to do so for compensation is required to obtain one of the listed licenses prior to completing the work.

Burglar Alarm Systems Agents

A licensed electrical or alarm system contractor may hire a burglar alarm system agent to perform elements of alarm system contracting. A burglar alarm systems agent is defined as a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor;
- Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.⁶⁸

A licensed electrical or alarm system contractor may not employ a person as a burglar alarm system agent unless that person:

- Is at least 18 years old;
- Has completed a minimum of 14 hours of specific training from a board-approved provider;
- Has not been convicted within the previous three years of a crime directly related to the employment;
- Has not been committed for controlled substance abuse or been found guilty of a crime under chapter 893, F.S. within the previous three years.⁶⁹

Each burglar alarm system agent must receive six hours of continuing education on burglar alarm system installation and repair and false alarm prevention every two years from a board-approved sponsor of training and through a board-approved training course.⁷⁰

⁶⁸ Section 489.505(25), F.S.

⁶⁹ Section 489.518(1), F.S.

⁷⁰ Section 489.518(5), F.S.

Financial Reporting

Sections 718.111(13), 719.104(4), and 720.303(7), F.S., provide the financial reporting requirements for condominium, cooperative, and homeowners' associations. The provisions for these associations are comparable.

Within 90 days following the end of the fiscal or calendar year or annually on such date as provided in the association's bylaws, the board must complete, or contract with a third party to complete the financial statements. Within 21 days after the financial report is completed by the association or received from the third party, but no later than 120 days after the end of the fiscal year, the board must provide each member of the association a copy of the financial report or a notice that it is available at no charge upon a written request.

Associations may not waive the financial reporting requirements for more than three consecutive years.

An association having total annual revenues between \$150,000 and less than \$300,000 must prepare compiled financial statements.⁷¹ An association having total annual revenues of at least \$300,000 but less than \$500,000 must prepare reviewed financial statements.⁷² An association having total revenues of \$500,000 or more must prepare audited financial statements.⁷³

An association with total annual revenue of less than \$150,000 must prepare a report of cash receipts and expenditures.

An association of fewer than 50 units or parcels, regardless of the association's annual revenues, must prepare a report of cash receipts and expenditures. Provisions specify the information that must be disclosed in the report of cash receipts and expenditures. Cooperative and homeowners' associations may provide otherwise in their governing documents.

If approved by a majority of voting interests present at a duly called meeting, an association may prepare or cause to be prepared:

- A report of cash receipts and expenditures in lieu of a compiled, reviewed or audited financial statement;
- A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

⁷¹ A compiled financial statement is an accounting service based on information provided by the entity that is the subject of the financial statement. A compiled financial statement is made without a Certified Public Accountant's (CPA) assurance as to conformity with Generally Accepted Accounting Principles (GAAP). Compiled financial statements must conform to the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services. J.G. Siegel and J.K. Shim, *Barron's Business Guides, Dictionary of Accounting Terms*, 3rd ed. (Barron's 2000).

⁷² A reviewed financial statement is an accounting service that provides a board of directors and interested parties some assurance as to the reliability of financial data without the CPA conducting an examination in accordance with GAAP. Reviewed financial statements must comply with AICPA auditing and review standards for public companies or the AICPA review standards for non-public businesses. *Id.*

⁷³ An audited financial statement by a CPA verifies the accuracy and completeness of the audited entities records in accordance with GAAP. *Id.*

- A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

III. Effect of Proposed Changes:

Section 1 amends s. 326.004, F.S., to remove the requirement that separate branch office licenses be maintained by yacht and ship brokers, in addition to licensure of the principal office. Brokers and salespeople are required to maintain individual licensure, with a principal place of business in Florida tied to the broker's individual license. No disciplinary orders against branch office licenses were issued in the previous three fiscal years.⁷⁴

Sections 2 through **9** amend the provisions in Part I of ch. 447, F.S., to eliminate the registration and regulation of labor organizations by the Department of Business and Professional Regulation (DBPR or department). Provisions relating to the right to work and strike, recordkeeping, rights of franchise for labor organizations, civil causes of action, criminal penalties, and recognition of federal regulations remain effective.

According to the department, the National Labor Relations Board (NLRB) is active in Florida and provides similar oversight of unions to that of the DBPR. The United States Department of Labor, Office of Labor Management Standards also registers unions. The department issued no disciplinary orders against labor organizations during the three previous fiscal years.⁷⁵

Sections 10 through **23** amend Part VII of ch. 468, F.S., to eliminate the licensing and regulation of talent agencies by the DBPR. The bill maintains the civil and criminal provisions currently provided in ch. 468, Part VII, F.S., and maintains contract and notice requirements related to talent agents.

According to the department, three disciplinary orders were issued against talent agencies in the three previous fiscal years; two involved minor violations for failure to include the talent agency's license number in advertisements. The financial account of the licensing program has been in a perpetual deficit since creation of talent agency licensure in 1986.⁷⁶

Sections 24 through **33** amend Part IX of ch. 468, F.S., to eliminate all licensing requirements for athlete agents. According to the department, no disciplinary orders were issued against athlete agents in the previous three fiscal years.⁷⁷ Certain civil and criminal causes of action against athlete agents remain effective. In addition, s. 468.456, F.S., amends the remedies available to address prohibited conduct by athlete agents to civil causes of action available to colleges and universities, rather than penalties and fines imposed by the department.

Sections 34 and **35** amend ch. 469, F.S., to remove the requirement that an asbestos abatement contractor obtain a separate business license in addition to an individual license. No disciplinary

⁷⁴ See 2016 Department of Business and Professional Regulation Legislative Bill Analysis for SB 1050, Dec. 16, 2015 (on file with Senate Committee on Regulated Industries) at 4-5.

⁷⁵ *Id.* at 4.

⁷⁶ *Id.*

⁷⁷ *Id.*

orders against a licensed asbestos abatement business were issued in the three previous fiscal years. Asbestos abatement contractors must qualify the business organizations they supervise and are liable for the actions of those businesses. Asbestos abatement contractors must inform the department of any change in their relationship with the qualified business, and a qualified business has 60 days to obtain another asbestos abatement contractor to serve as qualifying agent.

Section 36 amends s. 477.0135, F.S., to eliminate registration requirements for persons engaged in nail polishing. According to the department, this service is limited to non-invasive procedures and the use of harmful chemicals is prohibited.

The Board of Cosmetology issued three disciplinary orders against licensed cosmetologists or cosmetology salons for matters involving nail polishing in the three previous fiscal years. Two were for unlicensed activity, and one involved a nail specialist practicing with an expired license. None involved injury to a consumer.⁷⁸

Sections 37 through **40** amend ch. 481, F.S., to remove the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects and interior designers qualify their business organization with their individual licenses. The bill provides that architects and interior designers must inform the department of any change in their relationship with the qualified business, and the business has 60 days to obtain another qualifying architect or interior designer. The executive director or chair of the Board of Architecture and Interior Design may authorize another registered architect or interior designer employed by the business organization to temporarily service as its qualifying agent for no more than 60 days.

The bill amends s. 481.219(2)(b), F.S., to provide that the Board of Architecture and Interior Design may deny an application to qualify a business organization, if the applicant (or others identified in the application as partners, officers, directors, or stockholders who are also officers or directors) “has been involved in past disciplinary actions or on any grounds for which an individual registration or certification may be denied.”

According to the department, in the three previous fiscal years, the Board of Architecture and Interior Design disciplined licensed architecture businesses only six times in cases that did not also involve discipline against the supervising architect; generally, the licensed business was cited for operating without a supervising architect or for failure to include license numbers in advertisements.⁷⁹

The Board of Architecture and Interior Design disciplined licensed interior design businesses only four times in the three previous fiscal years in cases that did not also involve discipline against the qualifying interior designer. In three of the four disciplinary cases, the business license was retained by the business after the qualifying interior designer had left the firm.⁸⁰

⁷⁸ *Id.*

⁷⁹ *Id.* at 5.

⁸⁰ *Id.*

Sections 41 through **46** amend Part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license in addition to an individual license. The bill provides that landscape architects must qualify their business organization with their individual licenses and will be liable for the actions of the business organizations they qualify.

The bill repeals the department's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering landscape architectural services. Furthermore, the bill repeals the board's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed a year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect; and
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect.

The bill provides that landscape architects must inform the department of any change in their relationship with the qualified business, and the business has one month to obtain another qualifying landscape architect. According to the department, the Board of Landscape Architecture and Design issued no disciplinary orders against landscape architecture businesses during the three previous fiscal years.⁸¹

Section 47 amends s. 489.503, F.S., to exempt from licensure as an electrical or alarm system contractor, those persons engaged in the installation or repair of low voltage or communication cabling. Low voltage cabling is limited to a maximum of 98 volts. Section 489.503, F.S., already exempts from licensure those employed by cable and telephone companies, who engage in the installation, maintenance, repair, etc. of systems relating to the transmission of voice and data. The bill exempts all persons from the licensure requirement, whether or not they are employed by a cable and telephone company. According to the department, the Electrical Contractors' Licensing Board issued no disciplinary orders for such work in the three previous fiscal years.⁸²

The bill provides that a person installing low voltage landscape lighting that contains a factory-installed electrical cord with a plug and does not require installation or wiring is exempt from licensure requirements. The proposed exemption does not permit the alteration of a home's internal electrical system. According to the department, the Electrical Contractors' Licensing Board issued no disciplinary orders against licensees providing these services during the three previous fiscal years.⁸³

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

Section 48 amends s. 489.518, F.S., to provide that persons who perform only sales or installation of wireless alarm systems, other than fire alarms, in a single family residence, are not required to complete the 14 hours of training required of burglar alarm system agents. Burglar alarm system agents installing a wireless system are required to be supervised by a properly licensed electrical or alarm system contractor who is responsible for ensuring proper installation of the alarm system. According to the DBPR, the Electrical Contractors Licensing Board issued no disciplinary orders in the three previous fiscal years relating to this supervision requirement.⁸⁴

Sections 49 through 51 delete provisions that require condominium, timeshare, and homeowner associations of fewer than 50 units or parcels, regardless of the association's annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements.

Section 52 provides the bill takes effect July 1, 2016.

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:

CS/CS/SB 1050 eliminates the requirement for several professions to obtain a license in order to practice in the state. According to the Department of Business and Professional Regulation (DBPR or department), licensees will receive the benefit of fee reductions in the amounts shown below:

- Yacht and Ship Brokers - approximately \$1,200 in Fiscal Year 2015-2016; \$6,100 in Fiscal Year 2016-2017; \$2,600 in Fiscal Year 2017-2018; and \$6,100 in Fiscal Year 2018-2019.
- Professions (labor organizations, athlete agents, talent agents, and business licenses related to architects, interior designers, landscape architects, and asbestos abatement

⁸⁴ *Id.*

consultants and contractors) - approximately \$231,300 in Fiscal Year 2015-2016; \$156,209 in Fiscal Year 2016-2017; \$1,029,394 in Fiscal Year 2017-2018, and \$156,209 in Fiscal Year 2018-2019.

Associations of fewer than 50 units or parcels, regardless of the association’s annual revenues, would be required to prepare a compiled, reviewed, or audited financial statement instead of a report of cash receipts and expenditures.

C. Government Sector Impact:

According to the DBPR,⁸⁵ a reduction in state revenue within the Professional Regulation Trust Fund and the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund is anticipated to be \$1,589,112 from Fiscal Year 2015-2016 to Fiscal Year 2018-2019 (see table below), with a corresponding reduction of approximately \$128,314 in the Service Charge to General Revenue.

Reductions

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Revenues: License fees	Condominiums (Yacht and Ship Brokers) (\$1,200) Professions (\$231,300)	Condominiums (Yacht and Ship Brokers) (\$6,100) Professions (\$156,209)	Condominiums (Yacht and Ship Brokers) (\$2,600) Professions (\$1,029,394)	Condominiums (Yacht and Ship Brokers) (\$6,100) Professions (\$156,209)
Expenditures: Surcharge to GR (non-operating)	Condominiums (Yacht and Ship Brokers) (\$96) Professions (\$18,504)	Condominiums (Yacht and Ship Brokers) (\$488) Professions (\$12,985)	Condominiums (Yacht and Ship Brokers) (\$208) Professions (\$82,560)	Condominiums (Yacht and Ship Brokers) (\$488) Professions (\$12,985)

The effective date of the bill is July 1, 2016. However, the department anticipates revenue and expenditure reductions in Fiscal Year 2015-2016 (see table above) associated with the licensure renewal of athlete and talent agents and yacht and ship branch offices. Currently, the biennial renewals for athlete agents and talent agents are due May 31 during even years. Yacht and Ship branch office licenses are renewed for a period up to two years based on the expiration date of the licensee’s associated yacht and ship broker license. In anticipation of the elimination of the licenses and fees provided in the bill, the department contemplates not collecting renewals for these particular licenses in the remaining months prior to the effective date of the bill.

⁸⁵ See February 17, 2016, e-mail from Department of Business and Professional Regulation staff (on file with Senate Appropriations Subcommittee on General Government).

According to the DBPR, changes in licensing and renewal requirements will require programming modifications which can be handled with existing resources.⁸⁶ In addition, the elimination and modification of certain licenses and registration will necessitate the repeal or amendment of rules and applications regarding those licenses and registrations, which can be handled with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 326.004, 447.02, 447.09, 468.401, 468.406, 468.408, 468.409, 468.410, 468.412, 468.413, 468.415, 468.451, 468.452, 468.454, 468.456, 468.45615, 468.4565, 469.006, 469.009, 477.0135, 481.203, 481.219, 481.221, 481.229, 481.303, 481.321, 481.311, 481.317, 481.319, 481.329, 489.503, 489.518, 718.111, 719.104, and 720.303.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, 468.402, 468.403, 468.404, 468.405, 468.407, 468.414, 468.453, 468.4536, 468.4561, and 468.457.

IX. Additional Information:

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

CS/CS by Appropriations on February 25, 2016:

The committee substitute provides the following:

- Reinstates the criminal and civil remedies and corresponding requirements for how talent agents should conduct their business that are provided in current law;
- Amends the remedies available to address prohibited conduct by athlete agents to civil causes of action available to colleges and universities, rather than penalties and fines imposed by the DBPR;
- Removes deregulation provisions related to hair wrappers and body wrappers and reverts to current law regarding the regulation of those professions;
- Allows the executive director or the chair of the Board of Architecture and Interior Design to authorize another registered architect or interior designer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days. This provision applies when a qualifying architect or interior designer agent,

⁸⁶ *Id.*

who is the only qualifying agent for the business organization, ceases employment with the business organization;

- Clarifies that the license number for a qualifying agent of a business organization be included in any advertising of the business organization;
- Conforms to changes made in the bill to use the term “business organization” in lieu of “corporation,” “limited liability company,” “or partnership;”
- Corrects a title description; and
- Deletes provisions that require condominium, timeshare, and homeowner associations of fewer than 50 units or parcels, regardless of the association’s annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements.

CS by Regulated Industries on February 2, 2016:

The CS deletes the exemption proposed for veterinary acupressure or veterinary massage. It removes joint and several liability of a licensed qualifying agent for a business organization offering architectural or interior design services, for any damages resulting from the actions of the organization. All provisions relating to certificates of authorization for the practice of professional geology and qualification of the organization by active licensed professional geologists in the state were removed from the bill.

B. Amendments:

None.