

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1187 Regulated Professions and Occupations

SPONSOR(S): Regulatory Affairs Committee; Grant; La Rosa

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	7 Y, 5 N	Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee	11 Y, 0 N	White	Topp
3) Regulatory Affairs Committee	14 Y, 0 N, As CS	Brown-Blake	Hamon

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. It is structured to include separate divisions and various boards responsible for carrying out the Department's mission to license efficiently and regulate fairly.

The bill amends current law relating to certain professions and business organizations. Specifically, the bill:

- Eliminates the requirement that the following licensees acquire a certificate of authorization for their business entities, but allows such licensees to continue to operate their business entities if they apply to be the qualifying agent for such business entity:
 - Asbestos abatement consultant or contractor;
 - Architect;
 - Interior Designer;
 - Landscape Architect.
- Provides that yacht and ship brokers do not have to obtain a license for each branch office, so long as they maintain a primary office location.
- Removes the labor organizations and their business agents from the regulation of the Department and deletes provisions regulating the profession.
- Repeals ch. 468, F.S., part VII, regarding Talent Agencies, which eliminates licensure requirements, but maintains provisions related to the operation of and contracting with talent agencies, which may be enforced in civil court.
- Provides exemptions for the following individuals from licensure requirements:
 - Individuals solely painting fingers or nails;
 - Individuals selling, installing, or otherwise working on low voltage communication cable; and
 - Individuals installing low voltage landscape lighting containing a factory installed electrical cord with a plug.
- Exempts burglar alarm system agents from 14 hour board-approved training if the agent only performs sales or installations of wireless alarm systems other than fire alarm systems.

The bill is anticipated to significantly reduce revenues to the Department's Professional Regulation Trust Fund and an insignificant reduction in revenues to the Division of Condominiums, Timeshares and Mobile Homes Trust Fund. The revenue reduction is anticipated to be \$1,328,352 over the next three fiscal years. As a result of the reduction in revenues, there will also be a reduction in expenditures of approximately \$106,268 in the 8% revenue service charge sent to the General Revenue Fund.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. It is structured to include separate divisions and various boards responsible for carrying out the Department's mission to license efficiently and regulate fairly. The Divisions established under the Department include:

- The Division of Administration;
- The Division of Alcoholic Beverages and Tobacco;
- The Division of Certified Public Accounting;
- The Division of Drugs, Devices, and Cosmetics;
- The Division of Florida Condominiums, Timeshares, and Mobile Homes;
- The Division of Hotels and Restaurants;
- The Division of Pari-mutuel Wagering;
- The Division of Professions;
- The Division of Real Estate;
- The Division of Regulation;
- The Division of Technology; and
- The Division of Service Operations.¹

The Division of Professions (Professions) is responsible for the licensing of more than 415,000 professionals. Professions administers 12 professional boards, five department-regulated programs and one council, as follows:

- Board of Architecture and Interior Design;
- Asbestos Licensing Unit;
- Athlete Agents;
- Board of Auctioneers;
- Barbers' Board;
- Building Code Administrators and Inspectors Board;
- Regulatory Council of Community Association Managers;
- Construction Industry Licensing Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employee Leasing Companies;
- Home Inspectors;
- Board of Landscape Architecture;
- Mold-Related Services;
- Board of Pilot Commissioners;
- Board of Professional Geologists;
- Talent Agencies;
- Board of Veterinary Medicine; and
- Florida Board of Professional Engineers (managed by the Florida Engineers Management Corporation).²

The Division of Regulation (Regulation) acts as the enforcement authority for the professional boards and programs. Regulation monitors the professionals and related businesses; investigates complaints; and utilizes compliance mechanisms such as notices of noncompliance and citations.

¹ s. 20.165, F.S.

² Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited January 8, 2016).

Regulation is divided into six program areas as follows:

- Complaints/Investigations;
- Alternative Dispute Resolution;
- Unlicensed Activity;
- Farm Labor;
- Inspections; and
- Child Labor.³

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.⁴ 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
- Homeowners' Associations (jurisdiction limited to arbitration of election and recall disputes).⁵

Yacht and Ship Broker Branch Office Licenses

Background

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.⁶

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.⁷ "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."⁸

Applicants for a branch office license and renewal pay a \$100 fee. The license needs to be renewed every two years.⁹ There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 73 yacht and ship broker branch office licenses in active status and on average 13 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any yacht or ship broker branch office licenses during the 2012-2015 fiscal years.¹⁰

Effect of the Bill

³ Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/pro/index.html>, (last visited January 8, 2016).

⁴ 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).

⁵ *Id.*

⁶ 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).

⁷ s. 326.004(1), F.S.

⁸ s. 326.004(13), F.S.

⁹ Rule 61B-60.002, F.A.C.

¹⁰ Department of Business and Professional Regulation, *Eliminating Duplicative and Excessive Regulation* (October, 2015), (on file with the Business & Professionals Subcommittee).

The bill amends s. 326.004(13), F.S., removing the requirement for yacht and ship brokers to obtain a branch office license for each branch office. The bill does not remove the requirement for a broker to be licensed or to maintain a principle place of business in Florida.

Labor Organizations

Background

Chapter 447, F.S., governs the licensing and regulation of labor organizations and related business agents in the state. The Labor Organizations Program is a program located under the Division of Regulation. The program 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.”¹¹

In Florida, all labor organizations are required to register with the Department and all business agents of labor organizations must obtain a license.¹² 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; or
- Soliciting or receiving from any employer any right or privilege for employees.”¹³

Applicants for a business agent license shall pay \$25 fee for licensure and must meet a number of licensure requirements.¹⁴ Labor organization applicants must pay an annual fee of \$1.¹⁵

As of October 2015, there were 309 labor organizations registered and on average 15 new initial registrations issued annually during the 2012- 2015 fiscal years. Additionally, there were 469 business agents licensed and on average 48 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any labor organizations or business agents during the 2012-2015 fiscal years.

Effect of the Bill

The bill repeals certain provisions of ch. 447, F.S., which require labor organizations to be licensed and regulated by the Department. Specifically, the bill repeals:

- Section 447.04, F.S., regarding the licensure of business agents;
- Section 447.041, F.S., regarding hearings provided to licensees pursuant to ch. 120, F.S.;
- Section 447.045, F.S., regarding confidential information obtained by the Department during an investigation;
- Section 447.06, F.S., regarding the registration of labor organizations;
- Section 447.12, F.S., regarding the fees for registration; and
- Section 447.26, F.S., regarding the renewal of business agent’s license renewal requirements.

Additionally, s. 447.02, F.S., was amended to remove the definition of “department,” and s. 447.09, F.S. was amended to remove any disciplinary action against a business agent regarding licensure.

¹¹ s. 447.02(1), F.S.

¹² s. 447.04(2), F.S.

¹³ s. 447.02(2), F.S.

¹⁴ s. 447.04(2), F.S.

¹⁵ s. 447.06(1), F.S.

The bill does not affect the ability of individuals to pursue civil remedies against labor organizations for violations of ch. 447, F.S., or the ability of the state to pursue criminal penalties for a violation of the chapter. Additionally, the bill does not alter the obligations of a labor organization unrelated to registration with the Department.

Talent Agencies

Background

Chapter 468, Part VII, F.S., governs the licensing and regulation of talent agencies in the state. The Talent Agencies Program 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 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.¹⁶ 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.”¹⁷

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.¹⁸

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 \$400.¹⁹

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;²⁰
- 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;²¹
- Display a copy of the license conspicuously in the place of business;²²
- 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;²³
- Maintain records including the application, registration, or contract of each artist, with additional information;²⁴
- Provide a copy of the contract to the artist within 24 hours of the contract's execution;²⁵ 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;²⁶ 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.²⁷

¹⁶ s. 468.403(1), F.S.

¹⁷ s. 468.401, F.S.

¹⁸ s. 468.405, F.S.

¹⁹ Rule 61-19.005, F.A.C.

²⁰ s. 468.406(1), F.S.

²¹ s. 468.406(2), F.S.

²² s. 468.407(2), F.S.

²³ s. 468.408, F.S.

²⁴ s. 468.409, F.S.

²⁵ s. 468.410(3), F.S.

²⁶ s. 468.410(1), F.S.

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;
- 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.

As of October 2015, there were 414 talent agency licenses in active status and on average 51 new initial licenses issued annually during the 2012- 2015 fiscal years. There were three disciplinary cases brought against talent agencies during the 2012-2015 fiscal years.²⁸

Effect of the Bill

The bill repeals all provisions of ch. 468, Part VII, F.S., which require talent agents to be licensed and regulated by the Department. Specifically, the bill repeals:

- Section 468.402, F.S., regarding the duties of the department and disciplinary matters against talent agents licenses;
- Section 468.403, F.S., regarding the talent agent licensure requirements;
- Section 468.404, F.S., regarding the talent agent license fees;
- Section 468.405, F.S., regarding the licensure qualifications for talent agents;
- Section 468.407, F.S., regarding the posting of a talent agent license; and
- Section 468.414, F.S., regarding the Department's collecting of fines and penalties.

The bill still requires talent agents to comply with the following requirements:

- Fee posting;
- Schedule posting;
- Maintenance of specific records;
- Obtaining a bond; and
- Contract provisions and availability.

The bill maintains civil and criminal causes of action against talent agents for failure to comply with statutory requirements. It removes the terms "department," "license," and "licensee" from the definitions section, and removes any reference to licensure for talent agents.

Asbestos Abatement Business Organization

Background

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.

²⁷ s. 468.410(2), F.S.

²⁸ *Supra* note 10.

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect, professional engineer, and 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.²⁹

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.³⁰ 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; and
- Prepare asbestos abatement specifications.³¹

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.,³² 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 \$250.³³ There is no requirement on the branch office other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 239 asbestos abatement business licenses in active status and on average 12 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any asbestos business licenses during the 2012-2015 fiscal years.³⁴

Effect of the Bill

The bill removes the requirement for asbestos abatement licensees to obtain a separate license for an asbestos abatement business organization. Instead, if an applicant wants to practice under a firm offering asbestos abatement services, the qualifying agent must apply and have the license issued in his or her name and the business organization name must be noted on the license. The qualifying agent must still be a licensee pursuant to ch. 469, F.S., and must still prove he or she is qualified to supervise and is financially responsible.

The bill does not amend the responsibilities of licensees under ch. 469, F.S., or otherwise affect the obligations of asbestos consultants or contractors.

Nail Painting

Background

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

²⁹ Florida Department of Business and Professional Regulation, 2016 Legislative Bill Analysis, Senate Bill 1050, p. 2, (December 16, 2015).

³⁰ s. 469.003(3), F.S.

³¹ s. 469.003, F.S.

³² s. 469.006, F.S.

³³ Rule 61E1-3.001, F.A.C.

³⁴ *Supra* note 10.

Board of Cosmetology 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 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.]”³⁵ 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; and
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.”³⁶

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology...”³⁷ 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.”³⁸

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.³⁹ All cosmetology and specialty salons are subject to inspection by the Department.⁴⁰

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.⁴¹

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.⁴²

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. There have been three disciplinary cases brought against unlicensed individuals regarding the polishing of nails during the 2012-2015 fiscal years.⁴³

Effect of the Bill

³⁵ s. 477.013(5), F.S.

³⁶ s. 477.013(6), F.S.

³⁷ s. 477.013(3), F.S.

³⁸ s. 477.013(4), F.S.

³⁹ s. 477.0263, F.S.

⁴⁰ s. 477.025, F.S.

⁴¹ s. 477.0201, F.S.

⁴² s. 477.019(2), F.S.

⁴³ *Supra* note 10.

The bill amends s. 477.0135, F.S., to provide an exemption to the licensure and registration requirements of ch. 477, F.S., permitting individuals whose occupation or practice is solely confined to adding polish to fingernails and toenails to practice without obtaining a license or registration first.

Architecture Business or Interior Design Organization

Background

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.]”⁴⁴ 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.⁴⁵

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100.00, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.⁴⁶ There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 2747 architecture business licenses in active status and on average 203 new initial licenses issued annually during the 2012- 2015 fiscal years. There were 17 disciplinary cases brought against architecture business licenses during the 2012-2015 fiscal years.⁴⁷

As of October 2015, there were 1047 interior design business licenses in active status and on average 98 new initial licenses issued annually during the 2012- 2015 fiscal years. There were five disciplinary cases brought against interior design business licenses during the 2012-2015 fiscal years.⁴⁸

Effect of the Bill

The bill repeals all provisions of ch. 481, Part I, F.S., which require licensees to obtain a certificate of authorization to practice architecture or interior design through a business organization. Instead, a licensed architect or interior designer must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of architecture or interior design as a business organization. The application submitted by a licensee to qualify a business organization must state:

- The names of the partners if it’s a partnership;
- The names of the corporation and its officers if it’s a corporation, including the names of its stockholders that are also officers or directors;
- The fictitious name under which the business is doing business if it’s operating under a fictitious name; and
- The name of such other legal entity and its members, if it’s not a partnership, corporation, or operating under a fictitious name.

⁴⁴ s. 481.219(1), F.S.

⁴⁵ s. 481.219(2)-(3), F.S.

⁴⁶ Rules 61G1-17.001 and 61G1-17.002, F.A.C.

⁴⁷ *Supra* note 10.

⁴⁸ *Supra* note 10.

The bill repeal's 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 architectural or interior design services. Additionally, it removes the authority for the Department to renew the certificate or authorization or adopt rules establishing a procedure for biennial renewal of certificates of authorization.

The Board of Architecture and Interior Design may deny an application to qualify a business organization if the applicant or any person required to be named in the application has been involved in disciplinary actions or other grounds for which individual registration or certification may be denied.

If the qualifying agent ceases employment with the business organization, executive director or chair of the board may authorize another licensed architect or interior designer employed by the business organization to be the qualifying agent for no more than 60 days or until a replacement is made. The business organization must be qualified by another qualifying agent within 60 days after the termination, otherwise it is not engage in the practice of architecture or interior design until it is qualified.

The qualifying agent must provide notice to the Department when he or she begins to conduct business in his or her own name or with another business organization following the previous termination. The qualifying agent or the new business organization must submit the required application information.

The qualifying agent must ensure responsible supervising control of projects of the business organization and upon termination of his or her employment with a business organization that he or she qualified, shall notify the Department of the termination within 30 days of the termination.

Landscape Architecture Business Organization

Background

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 under 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.⁴⁹

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; and
- The corporation or partnership has been issued a certificate of authorization by the board.⁵⁰

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 \$337.50.⁵¹ There is no requirement on the business entity other than to obtain licensure. Additionally, there are no inspection requirements.

As of October 2015, there were 347 architecture business licenses in active status and on average 31 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary

⁴⁹ s. 481.323(1)(a), F.S.

⁵⁰ s. 481.319(1), F.S.

⁵¹ Rule 61G10-12.002, F.A.C.

cases brought against any landscape architecture business licenses during the 2012-2015 fiscal years.⁵²

Effect of the Bill

The bill repeals all provisions of ch. 481, Part II, F.S., which require licensees to obtain a certificate of authorization to practice landscape architecture through a business organization. Instead, a licensed landscape architect must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of landscape architecture as a business organization.

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 or more of the partners of the partnership is a licensed landscape architect.

The qualifying agent must provide notice to the Department within one month of any change in the information contained in the licensee application.

The bill removes disciplinary actions against certificates of authorization for business organizations. The bill did not modify the personal liability of a landscape architect for his or her professional acts.

Low Voltage Communication Cable

Background

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 under the Division of Professions. The 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 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.⁵³

The term "alarm system contractor" is defined as:

⁵² *Supra* note 10.

⁵³ s. 489.505(12), F.S.

[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.

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...⁵⁴

The 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.”⁵⁵

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, currently, an individual wishing to do so for compensation is required to obtain one of the listed licenses prior to completing the work.

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.

Effect of the Bill

The bill removes the part of the provision exempting only employees of cable and 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 from licensing requirements when selling, installing, repairing, altering, adding, or designing low voltage communication cabling. Thereby, the bill expands the exemption to apply to all persons that sell, install, repair, alter, add, or design low voltage communication cabling as described in s. 489.503(14), F.S.

The Department has not had any disciplinary cases brought against individuals installing low voltage data or communication cabling during the 2012-2015 fiscal years.⁵⁶

Low-Voltage Landscape Lighting

Background

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

⁵⁴ s. 489.505(19), F.S.

⁵⁵ Rule 61G6-7.001(4), F.A.C.

⁵⁶ *Supra* note 10.

contractor license, and alarm systems contractor license. Therefore, an individual wishing to do so for compensation is currently required to obtain one of the listed licenses prior to completing the work.

The Department has not had any disciplinary cases brought against individuals installing low voltage landscape lighting systems that plug into existing receptacles during the 2012-2015 fiscal years.⁵⁷

Effect of the Bill

The bill provides an express exemption from ch. 489, F.S., for persons who install low-voltage landscape lighting containing a factory-installed electrical cord with a plug which does not require installation, wiring, or a modification to the electrical wiring in a structure.

Burglar Alarm Systems Agents

Background

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.⁵⁸

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; and
- 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.⁵⁹

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.⁶⁰

The Department has not had any disciplinary cases brought against burglar alarm agents during the 2012-2015 fiscal years.⁶¹

Effect of the Bill

The bill removes the requirement that an alarm systems agent obtain 14 hours of specific training from the board-approved provider if the agent only performs sales or installations of wireless alarm systems other than fire alarm systems, in single-family residences.

B. SECTION DIRECTORY:

Section 1 amends s. 326.004, F.S., deleting a requirement that yacht and ship brokers maintain a separate license for each branch office.

⁵⁷ *Supra* note 10.

⁵⁸ s. 489.505(25), F.S.

⁵⁹ s. 489.518(1), F.S.

⁶⁰ s. 489.518(6), F.S.

⁶¹ *Supra* note 10.

Section 2 amends s. 447.02, F.S., deleting a definition.

Section 3 repeals s. 447.04, F.S., relating to business agents, licenses, and permits.

Section 4 repeals s. 447.041, F.S., relating to hearings.

Section 5 repeals s. 447.045, F.S., relating to certain confidential information.

Section 6 repeals s. 447.06, F.S., relating to the required registration of labor organizations.

Section 7 amends s. 447.09, F.S., deleting prohibitions against specified actions.

Section 8 repeals s. 447.12, F.S., relating to registration fees.

Section 9 repeals s. 447.16, F.S., relating to the applicability of ch. 447, F.S.

Section 10 amends s. 468.401, F.S., relating to definitions.

Section 11 repeals s. 468.402, F.S., relating to duties of the Department.

Section 12 repeals s. 468.403, F.S., relating to talent agent licensure requirements.

Section 13 repeals s. 468.404, F.S., relating to talent agent license fees.

Section 14 repeals s. 468.405, F.S., relating to talent agent licensure qualifications.

Section 15 amends s. 468.406, F.S., relating to talent agent fees.

Section 16 repeals s. 468.407, F.S., relating to talent agent licensure posting.

Section 17 amends s. 468.408, F.S., relating to bonds.

Section 18 repeals s. 468.409, F.S., relating to record maintenance.

Section 19 repeals s. 468.410, F.S., relating to contract requirements.

Section 20 amends s. 468.412, F.S., relating to prohibited acts.

Section 21 amends s. 468.413, F.S., relating to legal requirements and penalties.

Section 22 repeals s. 468.414, F.S., relating to deposits of money by the Department.

Section 23 amends s. 468.415, F.S., relating to sexual misconduct.

Section 24 amends s. 469.006, F.S., providing requirements for a qualifying agent.

Section 25 amends s. 469.009, F.S., deleting the authority of the Department to reprimand, censure, or impose probation on certain business organizations.

Section 26 amends s. 477.0135, F.S., providing that a license or registration is not required for a person whose occupation or practice is confined solely to adding polish to nails.

Section 27 amends s. 481.203, F.S., amending a definition.

Section 28 amends s. 481.219, F.S., providing requirements for a licensee that qualifies an architecture or interior design business organization.

Sections 29 and 30 amend ss. 481.221 and 481.229, F.S., conforming provisions to changes made by the act.

Section 31 reorders and amends s. 481.303, F.S., deleting the term "certificate of authorization."

Section 32 amends s. 481.321, F.S., revising provisions that require persons to display certificate numbers under certain circumstances.

Sections 33, 34, and 35 amend ss. 481.311, 481.317, and 481.319, F.S., conforming provisions to changes made by the act.

Section 36 amends s. 481.329, F.S., conforming a cross-reference.

Section 37 amends s. 489.503, F.S., exempting a person who installs certain low-voltage landscape lighting from specified requirements.

Section 38 amends s. 489.518, F.S., exempting certain persons from initial training for burglar alarm system agents.

Section 39 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The revenue reduction to state government is anticipated to be \$1,328,352 over the next three and one quarter fiscal years (FY 2016-17 to FY 2018-19). As a result, there will be a reduction of approximately \$106,268 in the 8% revenue service charge sent to the General Revenue Fund.

Revenue Reduction			
FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Condominiums (Yacht and Ship Brokers) (\$1,200)	Condominiums (Yacht and Ship Brokers) (\$6,100)	Condominiums (Yacht and Ship Brokers) (\$2,600)	Condominiums (Yacht and Ship Brokers) (\$6,100)
Professions (\$106,600)	Professions (\$113,089)	Professions (\$920,574)	Professions (\$113,089)

While the reduction in revenues is significant, the Professional Regulation Trust Fund is projected to have a sufficient cash balance moving forward.

2. Expenditures:

Due to the reduction in revenues, the Department will have less expenditures in the form of a surcharge to General Revenue.

Expenditure Reduction		
FY 2016-17	FY 2017-18	FY 2018-19
Condominiums (Yacht and Ship Brokers) (\$488)	Condominiums (Yacht and Ship Brokers) (\$208)	Condominiums (Yacht and Ship Brokers) (\$488)
Professions (\$9,047)	Professions (\$73,646)	Professions (\$9,047)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Numerous professions will no longer be required to obtain a license in order to practice, resulting in the following fee reductions:

Condominiums: (Yacht and Ship Brokers) Expenditure reduction of approximately \$6,100 in Fiscal Year 2016-17, \$2,600 in Fiscal Year 2017-18 and \$6,100 in Fiscal Year 2018-19.

Professions: Licensees will see an expenditure reduction of approximately \$113,089 in Fiscal Year 2016-17, \$920,574 in Fiscal Year 2017-18 and \$113,089 in Fiscal Year 2018-19.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The elimination of certain licenses and registration will necessitate the repeal or amendment of rules regarding those licenses and registrations. According to the Department, the following rules will need to be amended:

- Condominiums (Yacht and Ship Brokers) – Rules 61B-60.001, 61B-60.002, 61B-60.003, 61B-60.005, F. A.C., section 1;
- Talent Agents – Rule 61-19, F.A.C.;
- Asbestos – Rule 61E1, F.A.C.;
- Architecture and Interior Design – Rule 61G1, F.A.C.;
- Landscape Architects – Rules 61G10, 61-35.017, F.A.C.; and
- Electrical Contractors – Rules 61G6, 61-35.012, F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 25, 2016, the Regulatory Affairs Committee adopted a strike-all amendment and an amendment to the strike-all amendment and reported the bill favorably as a committee substitute. The amendments:

- Leave current licensure and supervision requirements in effect with regards to veterinary acupuncture and massage.
- Clarify language regarding civil liability for qualifying agents of architecture and interior design businesses.
- Leave current licensure requirements in effect for geology business organizations.
- Reinsert and amend language regarding talent agents providing for civil actions.

- Leave current registration requirements for hair wrappers and body wrappers.
- Leave current licensure requirements for athlete agents in effect.

This analysis is drafted to the committee substitute as passed by the Regulatory Affairs Committee.