

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 429	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Appropriations Committee; Veteran & Military Affairs Subcommittee; Steube and others	113 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/SB 184	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/CS/HB 429 passed the House on March 8, 2016, as CS/SB 184 as amended. The Senate concurred in the House amendment to the Senate Bill and subsequently passed the bill as amended on March 11, 2016. The bill includes portions of CS/CS/HB 1073, HB 7105, and SB 7070.

The bill addresses various issues in support of the state's military servicemembers and veteran community. The bill, in part:

- Creates the Military and Overseas Voting Assistance Task Force within the Department of State (DOS) to study issues involving the development and implementation of an online voting system that allows absent uniformed services voters who are overseas to electronically submit voted ballots.
- Requires the application form for an original, renewal, or replacement driver license or identification card to include a voluntary check-off to allow a veteran to request written or electronic information on federal, state, and local benefits and services.
- Requires a residential rental application to be processed within seven days for a servicemember by a landlord, condominium association, cooperative association, or a homeowner association.
- Requires the Department of Business and Professional Regulation (DBPR) and the Department of Agriculture and Consumer Services (DACS) to extend credit for relevant military service across a broad range of professions and occupational fields.
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Military Affairs (DMA) to provide CDL testing opportunities to Florida National Guard members at certain military facilities in Florida.
- Allows the Florida Veterans' Hall of Fame Council to consider former members of the Florida National Guard for admission into the Florida Veterans' Hall of Fame.

The bill will have an indeterminate, but likely insignificant negative fiscal impact on the state. The bill will not have a fiscal impact on local governments. Individual servicemembers, veterans, and their families, will benefit from the provisions of the bill. See the Fiscal Analysis & Economic Impact Statement for details.

The bill was approved by the Governor on April 15, 2016, ch. 2016-242, L.O.F., and will become effective on July 1, 2016.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Voluntary Check-off for Veterans to Receive Local and Federal Information**

##### **Present Situation**

##### *Voluntary Contributions on Driver License/Identification Card Applications*

The voluntary contribution process, also known as voluntary check-offs, provides the opportunity for citizens to make a donation by checking a box on a form when registering a vehicle or renewing a registration, as well as when applying for a new or replacement driver license or identification card.<sup>1</sup>

The Florida Statutes specifically authorize which organizations can receive a voluntary contribution. Section 320.023, F.S., establishes requirements for organizations seeking to establish a voluntary contribution on motor vehicle registration application forms, and s. 322.081, F.S., establishes similar requirements for driver license and identification card applications. Both sections require:

- A request for the voluntary contribution being sought, describing the voluntary contribution in general terms;
- An application fee,<sup>2</sup> not to exceed \$10,000, to defray the Department of Highway Safety and Motor Vehicles' (DHSMV) cost for reviewing the application and developing the voluntary contribution check-off, if authorized;
- A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution; and
- A financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

There are three veteran or military-related voluntary contributions authorized for driver license and identification card applications. An applicant may elect to contribute \$1 to the State Homes for Veterans Trust Fund, the Disabled American Veterans Charity, and Support Our Troops, Inc.<sup>3</sup>

##### *Florida Vets Connect Initiative*

In 2010, DHSMV and FDVA partnered to create the Florida Vets Connect initiative to stimulate outreach efforts to veterans in Florida by distributing general state and federal veterans' benefits information via e-mail to those individuals who request such information. The initiative allows veterans to voluntarily identify their veteran status to DHSMV when applying for or renewing a driver license or identification card. Pursuant to a memorandum of understanding, once the driver's license record data is exchanged<sup>4</sup> between the two agencies, the contact information is then forwarded to a third party provider to be used to ensure Florida's veterans are provided information regarding benefits to which they may be entitled.<sup>5</sup> According to FDVA, it receives the veterans' contact information (which includes email addresses) from DHSMV and then emails the information to a third party provider. The third party provider then distributes the information via e-mail to the veteran who requests such information on the

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<sup>1</sup> ss. 320.02(8), (14), and (15) and 328.72(11) and (16), F.S., provide motor vehicle registration applicants with 27 options for voluntary contributions. Section 322.08(8), F.S., provides driver license applicants with 20 options for voluntary contributions.

<sup>2</sup> State funds may not be used to pay the application fee.

<sup>3</sup> See s. 322.08(7)(n), (o), and (q), F.S.

<sup>4</sup> Florida Department of Highway Safety and Motor Vehicles, Memorandum of Understanding (MOU), DHSMV Contract No.: HSMV-0607—13, May 1, 2013.

<sup>5</sup> Florida CFO Press Release, "Florida Vets Connect' Connects Nearly 30,000 Florida Veterans with Benefits", February 10, 2010; available at: <http://www.myfloridacfo.com/sitepages/newsroom/pressrelease.aspx?id=3738> (Last visited October 27, 2015).

driver license or identification card application. The following chart depicts the rate that FDVA sent emails to recipients on a monthly basis during the 2015 calendar year:<sup>6</sup>

Month	Emails Sent
January	3214
February	1458
March	2791
April	2779
May	2825
June	2610
July	2873
August	3173
September	2993
October	3007
November	5314
December	5314
<b>Total</b>	<b>38,351</b>

### *County and City Veteran Service Officers*

Section 292.11, F.S., authorizes each county and city to employ a county or city veteran service officer to provide a myriad of assistance to veterans including presenting claims for, and securing benefits or privileges to, which veterans are or may become entitled by reason of their service in the military. County veteran service officers are county employees, but are certified by FDVA.<sup>7</sup> Each county currently employs a veteran service officer; however, not every city has a veteran service officer.<sup>8</sup>

### **Effect of Bill**

The bill requires the application form for an original, renewal, or replacement driver license or identification card to include a voluntary check-off for veterans to request written or electronic information on federal, state, and local benefits and services available as a result of military service. The veteran may elect to receive the information either through the United States Postal Service or by email from a non-profit third-party provider selected by FDVA that has sufficient ability to communicate with veterans throughout the state.

DHSMV must collaborate with FDVA to administer the voluntary check-off. DHSMV is required to report monthly to FDVA the name and mailing address or e-mail address of each veteran who requests the information. FDVA will then distribute the veterans' contact information to the third-party provider to administer delivery of veteran benefit and service information via the indicated preferred method of delivery (U.S. mail or e-mail). FDVA will also disseminate the contact information for veterans who request the information to the appropriate county or city veteran service officer in order to facilitate further outreach to veterans.

The bill requires that a third-party provider selected by FDVA to act on its behalf be a nonprofit organization with sufficient ability to communicate with veterans throughout the state. "Nonprofit organization" is defined as an organization exempt from the federal income tax under s. 501 of the Internal Revenue Code of 1986 or any federal, state, or local governmental entity.

Additionally, the bill requires that a veteran's contact information obtained by a third-party may only be used for purposes outlined in the bill, prohibits a third-party provider from selling a veteran's contact

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<sup>6</sup> Information provided to staff by the FDVA. On file with Veteran & Military Affairs Committee staff.

<sup>7</sup> s. 292.11(4), F.S.

<sup>8</sup> Listing of Florida County Veteran Service Officers, available at [http://floridavets.org/wp-content/uploads/2014/02/CVSO\\_Directory\\_1-February-2014.pdf](http://floridavets.org/wp-content/uploads/2014/02/CVSO_Directory_1-February-2014.pdf) (last visited October 28, 2015)

information, and requires a third-party to maintain confidentiality of the contact information in accordance with the public records laws in Ch. 119, F.S., and the federal Driver's Privacy Protection Act of 1994.<sup>9</sup> Any person who willfully and knowingly violates the aforementioned conditions commits a misdemeanor of the first degree.<sup>10</sup>

## **Creation of the Military and Overseas Voting Assistance Task Force**

### **Present Situation**

#### *Military Voters Overseas*

Florida currently does not provide for the return of voted absentee ballots through an online system or by other Internet-related or electronic means, except for overseas voters who may return their ballots via secure facsimile.<sup>11</sup> Florida law, however, does provide a special extension of time — 10 extra days — for overseas voters to return voted ballots in general elections and presidential preference primaries, provided the ballot is sent by Election Day.<sup>12</sup> Additionally, the Federal Write-In Absentee Ballot (FWAB) serves as an emergency back-up ballot for overseas voters who have requested a regular absentee ballot but didn't receive it.<sup>13</sup>

To further expedite the voting process, in addition to mailing a ballot, county election supervisors may e-mail, fax, or provide blank ballots online to voters at their request — an important time-saving measure for overseas electors who submit ballot requests close to an election or who otherwise do not timely receive their ballot.<sup>14</sup>

### **Effect of Bill**

The bill creates the Overseas Military Voting Assistance Task Force (Task Force) to study the development and implementation of an online voting system that would allow absent uniformed services voters who are overseas to submit a voted absentee ballot electronically.

The Task Force must be composed of 11 members as follows:

- The Secretary of State or his or her designee, who must serve as chair.
- The Adjutant General or his or her designee.
- The executive director of the Agency for State Technology or his or her designee.
- One member of the Senate appointed by the President of the Senate.
- One member of the House of Representatives appointed by the Speaker of the House of Representatives.
- Three supervisors of elections appointed by the Florida State Association of Supervisors of Elections.
- Three individuals appointed by the Secretary of State who have relevant expertise in computer technology, the Internet, or other associated technologies.

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<sup>9</sup> 18 U.S.C. § 2721

<sup>10</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>11</sup> Section 101.697, F.S.; Rule 1S-2.030, F.A.C. Notwithstanding, the law directs the Department of State to adopt rules providing for the receipt of absentee ballots from "overseas" (civilian and military) voters by "secure electronic means," if the Department of State determines such security can be established (i.e., verification of the voter, security of the transmission, etc.)

<sup>12</sup> s. 101.6952(5), F.S.

<sup>13</sup> s. 101.6952(2)(a), F.S.

<sup>14</sup> s. 101.62, F.S.; Rule 1S-2.030, F.A.C. Supervisors begin sending absentee ballots 45 days before each election for those with requests on file with the supervisor, and thereafter upon receipt of a timely request. Overseas voters can request a ballot from their local supervisor when they register to vote using the Federal Post Card Application (FPCA). Otherwise, they can timely request absentee ballots via telephone, mail, fax or email.

Members of the Task Force must serve without compensation, but are entitled to reimbursement for per diem and travel expenses. The Division of Elections of the Department of State (DOS) must provide support staff for the Task Force and the Agency for State Technology must assist the Task Force upon request.

The Task Force must study and report on issues including, but not limited to:

- Any factor that limits the ability of absent uniformed services voters who are overseas to request, receive, and return a voted absentee ballot within the required time period.
- The costs associated with the development and implementation of an online voting system.
- The feasibility of absent uniformed services voters who are overseas using an online voting system to electronically submit a voted absentee ballot.
- The security of electronically submitting a voted absentee ballot through an online voting system.
- Procedures adopted by other states to facilitate greater electoral participation by absent uniformed services voters who are overseas.

The Secretary of State must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2017, containing Task Force recommendations for the development and implementation of an online voting system that allows absent uniformed services voters who are overseas to electronically submit a voted absentee ballot.

## **DBPR**

### **Present Situation**

#### *Construction and Electrical Contractors*

DBPR is the agency charged with licensing and regulating various businesses and professions in the state, including, but not limited to, construction and electrical contractors. Both the Construction Industry Licensing Board<sup>15</sup> (CILB) and the Electrical Contractors' Licensing Board<sup>16</sup> (ECLB) are the regulatory bodies mandated with implementing parts I and II of ch. 489, F.S., respectively.

DBPR requires that all construction and electrical industry contractors be licensed.<sup>17</sup> Licensure may be issued by either registration or certification. DBPR must issue a certification or registration to each person qualified by the board and upon receipt of the original license fee.<sup>18</sup> Certified licenses are statewide and allow the contractor to work anywhere in Florida. Registered licenses are limited to certain local jurisdictions and only allow a contractor to work in the cities or counties where the contractor holds a certificate of competency.<sup>19</sup> More specifically, licensure by registration is available when the applicant has taken and passed a local competency examination, which permits the licensee to practice within that specified locale,<sup>20</sup> and licensure by certification is available when the applicant has taken and passed a state competency exam,<sup>21</sup> which permits the certificateholder to engage in

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<sup>15</sup> The CILB oversees the following license categories: air conditioning, building, internal pollutant storage tank lining applicator, mechanical, plumbing, pollutant storage systems, pool/spa, precision tank tester, residential, roofing, sheet metal, solar, specialty, underground utility and excavation.

<sup>16</sup> The ECLB oversees the following license categories: electrical contractor, alarm system contractor I and II, specialty and electrical contractor.

<sup>17</sup> s. 489.115(1), F.S.

<sup>18</sup> s. 489.115(2)(a), F.S.

<sup>19</sup> Dep't of Business and Professional Regulation, Construction Industry Licensing Board, *Definition of Occupation and Class Codes*, available at: <http://www.myfloridalicense.com/DBPR/pro/cilb/codes.html>, (last visited January 26, 2016).

<sup>20</sup> DBPR website on the Construction Industry Licensing Board, available at <http://www.myfloridalicense.com/dbpr/pro/cilb/> (last visited January 8, 2016).

<sup>21</sup> See s. 489.111, F.S., on exam requirements.

contracting in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.<sup>22</sup>

In order to be a certified contractor in Florida, a person must:<sup>23</sup>

- Be at least 18 years of age;
- Be of good moral character;
- Pass the certification examination, achieving a passing grade as established by board rule;
- Meet the educational/experience requirements;
- Pay all applicable fees;
- Obtain workers' compensation coverage; and
- Demonstrate financial responsibility.

Section 489.111(2)(c), F.S., provides the experience and education requirements for all construction contractor applicants, without exception for military veterans. These requirements include four years of experience in the category applied for, with one year as a supervisor. Applicants may apply up to three years of college credit toward the experience requirements. The CILB reviews applicant experience when necessary to determine if the experience is within the category applied for.

Section 489.511(1)(b), F.S., provides the experience and education eligibility requirements for all electrical or alarm system contractor applicants, one of which requires at least four years of experience as a supervisor or contractor in the trade for which he or she is making application.

Section 489.511(1)(b)3.c., F.S., provides that an applicant for an electrical or alarm system contractor license may use technical experience in electrical or alarm system work with the military or a governmental entity to meet the minimum six year experience requirement.

Section 489.511(1)(b)3.e., F.S., provides that technical education may be used in conjunction with experience to meet the six year experience requirements, and technical training received in the military is acceptable under this provision. The ECLB reviews all applications to determine if the required training and experience has been met.

Additionally, both the CILB and the ECLB provide reciprocity if the applicant has a license from another state and the qualifications are substantially similar to Florida's requirements.<sup>24</sup>

#### *Veteran and Spouse Contractors*

Section 455.213, F.S., requires DBPR to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for an honorably discharged military veteran, or his or her spouse at the time of discharge, if he or she applies for a license within 60 months (five years) after discharge.

Section 455.02, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DBPR administrative board,<sup>25</sup> he or she will be kept in good standing, without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

#### **Effect of Bill**

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<sup>22</sup> s. 489.115(2)(b), F.S.

<sup>23</sup> s. 489.511, F.S.

<sup>24</sup> ss. 489.115(3) and 489.511(5), F.S.

<sup>25</sup> See s. 20.165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.

The bill requires DBPR to provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran specific application and provide the following:

- Extension of credit to the fullest extent possible toward the requirements for licensure for military experience, training, or education received and completed during service in the U.S. Armed Forces if the experience, training, or education is substantially similar to the experience, training, or education required for licensure.
- For a Construction Contracting License: Up to three years of active duty service in the U.S. Armed Forces, regardless of duty or training, must be accepted to meet the four year experience requirement. A minimum of one additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.
- For Electrical or Alarm System Contracting Licenses: At least four years of experience as a supervisor or contractor in the military equivalent to the trade for which he or she is making application must be accepted to meet the four year experience requirement.

Additionally, beginning October 1, 2017, and annually thereafter, in conjunction with the boards, DBPR is required to prepare and submit a report titled Construction and Electrical Contracting Veteran Applicant Statistics to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the:

- Number of applicants who identified themselves as veterans;
- Number of veterans whose applications for a license were approved, denied and reason for denial;
- Data on the application processing times for veterans; and
- Recommendations on ways to improve DBPR's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under parts I and II of ch. 489, F.S.

Lastly, the bill revises the six year military experience alternative for electrical or alarm system contracting. Specifically, the bill authorizes the use of technical education or training, in addition to the technical experience in current law, in electrical or alarm system work with the U.S. Armed Forces or a governmental entity.

## DACS

### Present Situation

#### *Private Security, Private Investigative and Recovery Services*

The Division of Licensing within DACS issues licenses to persons providing private security, private investigative and recovery services to the public pursuant to ch. 493, F.S. In 2015, the division regulated 26 different license types, including, six private investigator, seven private security officer, seven recovery agent, and six firearm; for a total of approximately 1.6 million private security, private investigative, and recovery services licenses in the state of Florida.<sup>26</sup>

Private Investigators are defined as any person who, for a fee, provides or performs private investigation,<sup>27</sup> which means investigation for the purpose of obtaining information with reference to certain activities which are set forth in statute.<sup>28</sup> A private security officer is defined as any individual who, for consideration:

- Advertises as providing or performs bodyguard services or otherwise guards persons or property;
- Attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or
- Attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof.<sup>29</sup>

The definition of a private security officer also includes armored car personnel and those personnel engaged in the transportation of prisoners.<sup>30</sup> A recovery agent is any individual who, for consideration, advertises as providing or performs authorized<sup>31</sup> repossessions,<sup>32</sup> which are defined to mean the recovery of certain personal property as set forth in statute.<sup>33</sup>

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<sup>26</sup> Florida DACS, Division of Licensing, *Number of Licensees by Type As of December 31, 2015*, available at: [http://www.freshfromflorida.com/content/download/7471/118627/Number\\_of\\_Licensees\\_By\\_Type.pdf](http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf), (last visited January 26, 2016).

<sup>27</sup> s. 493.6101(17), F.S., provides the activities that provide grounds for an investigation include, crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation; the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons; the credibility of witnesses or other persons; the whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates; the location or recovery of lost or stolen property; the causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property; or the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

<sup>28</sup> s. 493.6101(17), F.S.

<sup>29</sup> s. 493.6101(19), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> s. 493.6101(2), requires repossessions to be performed by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.

<sup>32</sup> s. 493.6101(21), F.S.

<sup>33</sup> s. 493.6101(22), F.S., restricts "repossession" to the recovery of the following items: a motor vehicle as defined under s. 320.01(1), F.S., a mobile home as defined in s. 320.01(2), F.S., a motorboat as defined under s. 327.02, F.S., an aircraft as defined in s. 330.27(1), F.S., a personal watercraft as defined in s. 327.02, F.S., an all-terrain vehicle as defined in s. 316.2074, F.S., farm equipment as defined under s. 686.402, F.S., or industrial equipment.



General license requirements for all three professions require each applicant to:<sup>34</sup>

- Be at least 18 years old.
- Be of good moral character.
- Not have been adjudicated, involuntarily placed in a treatment facility for the mentally ill unless his or her capacity and competency has been judicially restored, and not been diagnosed as having an incapacitating mental illness, unless he or she is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or been found guilty of a crime relating to controlled substances in any other state within a three-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing and has successfully completed a rehabilitation course.
- Be a U.S. citizen or permanent legal resident alien. For applicants who are not U.S. citizens, they must provide additional documentation and proof that they are a permanent and legal resident alien of the U.S.

Those applicants must provide to DACS, among other things, an application with the following:

- Name;
- Date of birth;
- Social Security number;<sup>35</sup>
- Place of Birth;
- A statement of all criminal convictions, including dispositions, and adjudications withheld;
- A statement of whether he or she has been adjudicated incapacitated or committed to a mental institution;
- A statement regarding any history of illegal drug use or alcohol abuse;
- One full-face, color photograph; and
- A full set of prints on the division's fingerprint card or submitted electronically via a personal inquiry waiver and the appropriate fees.<sup>36</sup>

In addition to the general licensure requirements above, depending on what class an applicant applies for, the applicant may have to prove he or she successfully completed certain training or education requirements and/or have relevant work experience.<sup>37</sup>

DACS currently requires returning veterans and their spouses to pay application fees, fingerprint fees, and all other applicable fees when applying for licenses under ch. 493, F.S., as private investigators, security officers or recovery agents.

In addition, current law does not specifically require DACS or its boards to extend credit towards licensure for relevant training, experience, or education gained in the military.

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<sup>34</sup> s. 493.6106, F.S.(1), F.S.

<sup>35</sup> DACS will not disclose an applicant's social security number without consent of the applicant to anyone outside DACS unless required by law. See Chapter 119, F. S., 15 U.S.C., ss. 1681 et seq., 15 U.S.C. ss. 6801 et seq., 18 U.S.C. ss. 2721 et seq., Pub. L. No. 107-56 (USA Patriot Act of 2001), and Presidential Executive Order 13224.

<sup>36</sup> See also Fla. Dept. of Agriculture and Consumer Affairs, *Private Investigator Handbook*, p.11, available at: [https://licensing.freshfromflorida.com/forms/P-00093\\_PrivateInvestigatorHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00093_PrivateInvestigatorHandbook.pdf); *Security Officer Handbook*, p. 16, available at: [https://licensing.freshfromflorida.com/forms/P-00092\\_SecurityOfficerHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00092_SecurityOfficerHandbook.pdf); *Recovery Agent Handbook*, at p. 9, [https://licensing.freshfromflorida.com/forms/P-00094\\_RecoveryAgentHandbook.pdf](https://licensing.freshfromflorida.com/forms/P-00094_RecoveryAgentHandbook.pdf), (Last visited January 22, 2016).

<sup>37</sup> See ss. 493.6203, 493.6303, and 493.6403, F.S.

## Effect of Bill

The bill requires DACS to provide a method by which honorably discharged veterans may apply for licensure. The method must include the following:

- Extension of credit towards the requirements for licensure for military training or education received and completed during service in the Armed Forces, if the training or education is substantially similar to the training or education required for licensure.
- Identification of overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicant, and notification to the applicant of the overlaps and gaps.
- Assistance in identifying programs that offer training and education needed to meet the licensure requirements.

Additionally, beginning October 1, 2017, and annually thereafter, DACS is required to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the following:

- Number of applicants who identified themselves as veterans.
- Number of veterans whose applications for a license were approved, denied and reason for denial.
- Data on the application processing times for veterans.
- Information on DACS efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure.
- Information on DACS identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants.
- Recommendations on ways to improve DACS' ability to meet the needs of veterans that would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under ch. 493, F.S.

## DHSMV

### Present Situation<sup>38</sup>

#### *Troops to Truckers*

Active duty and recently separated servicemembers that have experience driving large trucks in the military are currently eligible to obtain a Florida Commercial Driver License (CDL) without retaking the skills tests normally required. FMCSA Regulation 49 CFR, Section 383.77, gives states the authority to substitute two years of commercial motor vehicle safe driving experience in the military for the skills test portion of the CDL test. The process allows states to assist veterans and active duty personnel in their transition from their military occupation to a civilian career.

Current law gives DHSMV the authority to waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a driver license issued by the U.S. Armed Forces if the driver applies for a Florida license of an equal or lesser classification.<sup>39</sup> DHSMV implements this provision pursuant to agency rule.<sup>40</sup> The provision:

- Allows active duty and those who are within 90 days of separation to qualify for the skills test waiver;

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<sup>38</sup> Information on the "Troops to Truckers" program is available at: <http://www.troopstotruckers.com/> (last visited January 7, 2016).

<sup>39</sup> s. 322.12, F.S.

<sup>40</sup> Rulemaking Authority: s. 322.02(6), F.S. Law Implemented: s. 322.12, F.S.

- Requires the applicant to meet all the test waiver requirements within 120 days of separation; and
- Requires the applicant to have driven military vehicles two years prior to the waiver application that in the civilian world would have required a CDL.

Specifically, applicants who seek a waiver of the CDL skills testing due to military experience must do the following:

- Pass all required written knowledge exams for the CDL class and endorsements they will be issued.
- Apply for the CDL qualification waiver while on active duty status or within 90 days of separation of service. The applicant must provide a military active duty identification card or DD-214 (military discharge papers). The skills test waiver process must be completed, and the CDL issued, within 120 days of separation from service.
- Certify that for at least two years immediately preceding the application, he or she operated a motor vehicle representative of the CDL class and endorsements for which he or she is applying.
- Present the Certification for Waiver of Skill Test for Military Personnel form<sup>41</sup> filled out in its entirety and signed by his or her commanding officer or designee.<sup>42</sup>

### **Effect of Bill**

The bill requires DHSMV and DMA to jointly conduct a pilot program to provide onsite commercial driver license testing opportunities to qualified members of the Florida National Guard pursuant to the DHSMV commercial driver license skills test waiver under s. 322.12, F.S., described previously. Testing must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to the departments.

DHSMV and DMA are required to submit, by June 30, 2017, a report on the results of the pilot program to the President of the Senate and the Speaker of the House of Representatives. The pilot program will be repealed on October 1, 2017.

### **Rental Applications for Servicemembers**

#### **Present Situation**

Residential tenancies are governed by Part II of ch. 83, F.S., known as the “Florida Residential Landlord and Tenant Act” (Act). The Act generally applies to the rental of a dwelling unit, but does not apply to residence or detention in a facility, temporary occupancy related to a contract for purchase and sale, transient occupancy in a hotel or motel, a mobile home park tenancy, or occupancy by the owner of a cooperative or condominium.<sup>43</sup>

While the Act regulates portions of the landlord-tenant relationship, many parts of that relationship are unregulated and left to the marketplace to regulate. One such area is that of rental application and tenant review prior to the landlord agreeing to offer a lease to a prospective tenant. Increasingly, landlords may require every prospective tenant to submit to one or more reviews, including:

- A criminal history background check;
- Sexual offender check;

<sup>41</sup> A copy of the Certification for Waiver of Skill Test for Military Personnel form is available at: <http://www.flhsmv.gov/html/HSMV71054.pdf> (last visited January 7, 2016).

<sup>42</sup> Rule 15A-7.018, F.A.C., Military Qualifications for Waiver of Commercial Driver License Skills Test.

<sup>43</sup> ss. 83.41 and 83.42, F.S.

- Credit check; or
- Employment verification.

The United States Department of Defense (USDOD) 2015 Strength Figures indicates a total active duty military population of 1.3 million worldwide. Florida has a large military population with more than 61,000 active duty military personnel.<sup>44</sup>

America's servicemembers face many challenges related to their service to the country. One such challenge is related to the frequent transfers between bases that are common to all servicemembers, referred to as a Permanent Change of Station (PCS). Relevant to this bill, the military will only authorize 10 days of temporary lodging expense (TLE) for transfers within the continental United States to the servicemember searching for new housing pursuant to a PCS.<sup>45</sup> When landlords do not approve the servicemember's rental application while awaiting results of a background check or checks, servicemembers report these delays sometimes far exceed the days authorized for TLE reimbursement.

A servicemember may terminate a rental agreement by providing a landlord with a written notice of termination effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice if any of the following criteria are met:<sup>46</sup>

- The servicemember is required, pursuant to a permanent change of station orders, to move 35 miles or more from the location of the rental premises;<sup>47</sup>
- The servicemember is prematurely or involuntarily discharged or released from active duty or state active duty;<sup>48</sup>
- The servicemember is released from active duty or state active duty after having leased the rental premises while on active duty or state active duty status and the rental premises is 35 miles or more from the servicemember's home of record prior to entering active duty or state active duty;<sup>49</sup>
- After entering into a rental agreement, the servicemember receives military orders requiring him or her to move into government quarters or the servicemember becomes eligible to live in and opts to move into government quarters;<sup>50</sup>
- The servicemember receives temporary duty orders, temporary change of station orders, or state active duty orders to an area 35 miles or more from the location of the rental premises, provided such orders are for a period exceeding 60 days;<sup>51</sup> or
- The servicemember has leased the property, but prior to taking possession of the rental premises, receives a change of orders to an area that is 35 miles or more from the location of the rental premises.<sup>52</sup>

## Effect of Bill

This bill creates s. 83.683, F.S., to provide that, if a landlord requires a prospective tenant to complete a rental application before residing in a rental unit, the landlord must complete processing of the rental application submitted by a prospective tenant who is a servicemember within 7 days after submission of the application. Within that 7-day period, the landlord must notify the servicemember in writing of an application approval or denial and the reason for the denial. Absent a timely denial of the rental

<sup>44</sup> Information obtained from Florida Department of Military Affairs staff. On file with Local & Federal Affairs Committee.

<sup>45</sup> <http://www.defensetravel.dod.mil/site/faqpcs.cfm> (last accessed January 28, 2016).

<sup>46</sup> s. 83.682(1), F.S.

<sup>47</sup> s. 83.682(1)(a), F.S.

<sup>48</sup> s. 83.682(1)(b), F.S.

<sup>49</sup> s. 83.682(1)(c), F.S.

<sup>50</sup> s. 83.682(1)(d), F.S.

<sup>51</sup> s. 83.682(1)(e), F.S.

<sup>52</sup> s. 83.682(1)(f), F.S.

application, the landlord must lease the rental unit to the servicemember provided that all other terms of the application and lease are complied with.<sup>53</sup>

Many community associations (condominium associations, cooperative associations, and homeowners associations) require review and approval of a prospective tenant of a condominium unit, cooperative unit, or parcel within the association's control. Similar to landlords, associations may require a rental application and review process. The bill provides that a community association must process the rental application submitted by a prospective tenant who is a servicemember within 7 days after submission. Within that 7-day period, the association must notify the servicemember in writing of an application approval or denial and the reason for the denial. Absent a timely denial of the rental application, the association must allow the unit or parcel owner to lease to the servicemember and the landlord must lease the rental unit to the servicemember provided that all other terms of the application and lease are complied with.

To prevent coercion by landlords and associations, the bill provides that its provisions may not be waived or modified by the agreement of the parties under any circumstances.

Any right or duty declared in the Florida Residential Landlord and Tenant Act is enforceable by civil action.<sup>54</sup> If either the landlord or the tenant fails to comply with the requirements of the rental agreement, the aggrieved party may recover the damages caused by the noncompliance.<sup>55</sup> Additionally, the party in whose favor a judgment or decree has been rendered may recover reasonable attorney fees and court costs from the nonprevailing party.<sup>56</sup>

The bill itself does not provide a civil remedy for breach of contract if the application is not processed within 7 days for a servicemember. However, similar contract remedies typically result in the court awarding a cause of action for damages or a suit for specific performance.<sup>57</sup>

## **Florida Veterans' Hall of Fame Council**

### **Present Situation**

#### *Florida Veterans*

A veteran is defined in Florida Statutes to mean a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only, or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.<sup>58</sup>

Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.<sup>59</sup> This makes Florida the state with the third largest veteran population, behind only California and Texas.<sup>60</sup>

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<sup>53</sup> Other requirements typically include signing of the lease, payment of a security deposit, and payment of initial rent. These requirements are not waived or excluded by the bill.

<sup>54</sup> s. 83.54, F.S. A right or duty enforced by civil action under this section does not preclude prosecution for a criminal offense related to the lease or leased property.

<sup>55</sup> s. 83.55, F.S.

<sup>56</sup> s. 83.48, F.S.

<sup>57</sup> Specific performance is an order of a court which requires a party to perform a specific act, usually what is stated in a contract. As it pertains to the bill, the court would order the residential landlord to allow a servicemember to move in.

<sup>58</sup> s.1.01(14), F.S.

<sup>59</sup> U.S. Census Bureau, *A Snapshot of Our Nation's Veterans*, available at <http://www.census.gov/library/infographics/veterans.html> (last visited Feb. 3, 2016).

<sup>60</sup> Florida Department of Veterans' Affairs, *Fast Facts*, available at [http://floridavets.org/?page\\_id=50](http://floridavets.org/?page_id=50) (last visited Feb. 3, 2016).

## *Florida National Guard*

The National Guard (Guard) is comprised of an Army reserve component (Army National Guard) and an Air Force reserve component (Air Force National Guard). Each component of the Guard is described in law as essential and is required to be an integral part of the first line defenses of the United States to be maintained and assured at all times.<sup>61</sup> The Guard is governed under Title 32 of the United States Code whereas active duty members of the United States Armed Forces serve under Title 10.

While serving under Title 32, Florida National Guard (FLNG) members are under the command of the Governor.<sup>62</sup> However, as a reserve component of the Army and Air Force, members of the FLNG may be ordered to active duty by the President. In this instance members of the FLNG become federalized under Title 10. A former member of the FLNG may not qualify as a veteran, as defined in Florida Statutes, unless he or she has been federalized under Title 10.

According to the Florida Department of Military Affairs, there are approximately 60,000 former members of the FLNG currently living in Florida.

## *Florida Veterans' Hall of Fame*

The Florida Veterans' Hall of Fame (Hall of Fame) was created during the 2011 Regular Session to honor veterans who, through their works and lives during or after military service, have made a significant contribution to the State of Florida.<sup>63</sup> The Hall of Fame is overseen by the Florida Veterans' Hall of Fame Council (council), which is comprised of seven honorably discharged veterans, of which four are members of a congressionally chartered veterans service organization.<sup>64</sup> The Governor, the President of the Senate, the Speaker of the House of Representatives, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the executive director of FDVA each appoint one member to the council.<sup>65</sup> Council members serve 4-year terms.<sup>66</sup>

The council is directed to accept and consider nominations for transmission to FDVA. FDVA then presents the list of nominees to the Governor and the Cabinet who will select the nominees to be included in the Hall of Fame. In selecting its nominees, the council shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.<sup>67</sup> The council is allowed to establish criteria, set the time frame for acceptance of nominations, and the process for selecting nominees.

Since the inaugural Class of 2013, there have been 19 veterans inducted into the Hall of Fame.<sup>68</sup>

### **Effect of Bill**

The bill amends s. 265.003, F.S., to allow the Florida Veterans' Hall of Fame Council to consider former members of the Florida National Guard for admission into the Florida Veterans' Hall of Fame.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>61</sup> 32 U.S.C. s. 102.

<sup>62</sup> s. 250.03, F.S.

<sup>63</sup> Ch. 2011-168, s. 1, Laws of Fla.

<sup>64</sup> s. 265.003(3)(a), F.S.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> s. 265.003(4), F.S.

<sup>68</sup> Florida Department of Veterans Affairs, *Florida Veterans' Hall of Fame*, available at <http://floridavets.org/our-veterans/florida-veterans-hall-of-fame/> (last visited Feb. 5, 2016).

1. Revenues:

None.

2. Expenditures:

**DHSMV**

DHSMV will be required to make available the option to receive veterans' benefits information on both the mail-in renewal form, and the online renewal and replacement forms for driver license and identification card transactions. DHSMV states that the operational and fiscal impact can be accommodated during its modernization effort as the department had already planned to incorporate a larger renewal form with similar changes. DHSMV estimates a total of 2,700 programming hours, or the equivalent of \$175,500 in FTE and contracted resources workload, will be required to implement the bill (2,100 hours or \$142,500 for the mail-in form, and 600 hours or \$33,000 for the online forms), which will be absorbed within existing resources. The option to receive veterans' benefits information is already available for in-office driver license and identification card issuances.<sup>69</sup>

For the commercial drivers' license pilot program, DHSMV operates a program titled 'Florida Licensing on Wheels (FLOW)',<sup>70</sup> which provides a convenient method to renew a driver license, obtain a replacement driver license, change a name or address on a driver license, get an identification card, etc. This requirement may be incorporated into DHSMV's existing FLOW program and will not have a negative fiscal impact on state funds.

**DOS**

There will be a negative fiscal impact to DOS for the reimbursement of per diem and travel expenses for the Military and Overseas Voting Assistance Task Force members. Additionally, the Division of Elections within DOS is required to provide support staff for the Task Force. Depending on the scope of the Task Force's needs, this requirement could impact the ability of the Division to perform its regular duties during an election year and may require additional full-time employees. Also, the Agency for State Technology would be required to provide assistance if requested.<sup>71</sup>

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<sup>69</sup> 2016 DHSMV agency analysis for HB 429. On file with Veteran & Military Affairs Subcommittee staff.

<sup>70</sup> Information on the FLOW program is available at the DHMSV FLOW website here: <http://www.flhsmv.gov/offices/FLOW.htm> (last visited January 26, 2016).

<sup>71</sup> 2016 Department of State SB 184 agency analysis. On file with Veteran & Military Affairs Subcommittee staff.

## **FDVA**

There may be an indeterminate, but likely insignificant negative fiscal impact to FDVA. The requested information shall be delivered to the veteran by a third-party provider selected by FDVA. According to FDVA, based on the current contractual agreement, the cost would be \$11,529, not including the cost of postage and the creation of additional outreach materials.<sup>72</sup>

## **DACS**

According to DACS, the cost to implement the bill will be minimal with no recurring or non-recurring fiscal impact and “can be accomplished within existing resources.”<sup>73</sup> Currently, all moneys paid under ch. 493, F.S., are deposited in the Division of Licensing Trust Fund pursuant to s. 493.6117, F.S. There may be an insignificant negative fiscal impact connected to the review of current licensure requirements. This will be absorbed within agency resources.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Increasing access to local veteran benefits information for veterans, expediting the processing time of rental agreements for servicemembers, requiring credit toward professional licensure for veterans, and providing increased CDL testing opportunities to members of the Florida National Guard, will provide a positive fiscal impact to these individuals and their families.

### **D. FISCAL COMMENTS:**

None.

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<sup>72</sup> 2016 FDVA agency analysis for HB 429. On file with Veteran & Military Affairs Subcommittee staff.

<sup>73</sup> DACS SB 1504 Agency Analysis, January 25, 2016.