

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 27 Deregulation of Professions and Occupations
SPONSOR(S): Commerce Committee, Business & Professions Subcommittee, Ingoglia
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1640

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	11 Y, 4 N, As CS	Wright	Anstead
2) Government Operations & Technology Appropriations Subcommittee	8 Y, 3 N	Helpling	Topp
3) Commerce Committee	18 Y, 4 N, As CS	Wright	Hamon

SUMMARY ANALYSIS

The bill relates to businesses and professions regulated by the Department of Business and Professional Regulation. Specifically, the bill:

- Deregulates the following:
 - Interior Designers and interior design businesses,
 - Hair braiders, hair wrappers, and body wrappers,
 - Nail polishers and makeup applicators, and
 - Boxing announcers and timekeepers.
- Partially deregulates the following, while maintaining standards and civil and criminal causes of action:
 - Auctioneers,
 - Talent agents, and
 - Labor organizations.
- Eliminates the additional business license required for the following licensees:
 - Asbestos abatement consultants and contractors,
 - Architects,
 - Engineers,
 - Landscape architects, and
 - Geologists.
- Reduces the hours of training required to obtain a license for:
 - Barbers and restricted barbers, and
 - Nail, facial and full specialists.
- Adds new ways for out of state professionals to obtain a license in the state for:
 - Veterinarians,
 - Construction and electrical contractors,
 - Landscape architects,
 - Geologists,
 - Engineers,
 - Certified public accountants,
 - Mold services professionals,
 - Home inspectors,
 - Building code professionals, and
 - Cosmetologists and Barbers.

The bill will have a significant negative fiscal impact on state revenues with an estimated reduction totaling \$3,910,121 over the next three fiscal years. The bill will result in a reduction of expenditures of \$135,900 in FY 2019-20, \$141,100 in FY 2020-21, and \$147,800 in FY 2021-22. For more details, see *Fiscal Comments*.

The bill has an effective date of July 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0027f.COM

DATE: 4/5/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Organizational Structure of the Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses businesses and professionals in Florida through the following divisions:

- 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) licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- 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.²

The Division of Regulation (Regulations) is the enforcement authority for Labor Organizations and Business Agents, the Florida State Boxing Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.³ To ensure compliance with applicable

¹ s. 20.165, F.S.

² Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited Mar. 16, 2019).

³ Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers. Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/reg/index.html> (Mar. 16, 2019).

laws and rules by those professions and related businesses, Regulations investigates complaints, utilizes compliance mechanisms, and performs inspections.⁴

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.⁵ 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).⁶

DBPR imposes a \$5 unlicensed activity fee in addition to any initial license fee or renewal fee.⁷

Under DBPR licensing convention, a license by endorsement means a license granted to an applicant based on their license in another jurisdiction. Section 455.227(2), F.S., allows DBPR or an applicable board to deny a license application based on an applicant's license history in another jurisdiction.⁸

Barbering

Background

Barbers, restricted barbers, and barbershops are regulated by ch. 476, F.S., and licensed by the Barbers' Board.

'Barbering' means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances."⁹

A 'restricted barber' is a person who has a restricted license to practice barbering that limits the licensee's practice to specific areas of demonstrated competence pursuant to rules adopted by the board.

Barbers and restricted barbers must complete 1,200¹⁰ hours of training to be eligible for licensure, in addition to passing the applicable exam and paying a \$223.50 fee.¹¹

Barbers and restricted barbers are required to complete 2 hours of continuing education every two years, which must be focused on HIV/AIDS topics.¹²

Barbers licensed in another state are eligible for a license by endorsement in Florida if they have completed:¹³

⁴ Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/reg/index.html> (Feb. 20, 2017).

⁵ Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html>, (last visited March 16, 2019).

⁶ *Id.*

⁷ S. 455.2281, F.S.

⁸ S. 455.227(1)(f), (2)(a), F.S.

⁹ S. 476.034(2), F.S.

¹⁰ Under certain circumstances, an applicant may take the exam after completing 1,000 hours of training. If he or she passes the exam, no more training is required. s. 476.114(c)2., F.S.

¹¹ R. 61-35.006, F.A.C.

¹² S. 455.2228, F.S.

- at least 1,200 educational hours,
- a written exam, and
- a 2 hour HIV/AIDS course.

Effect of the Bill

The bill reduces the hours of training from 1,200 to 600 for barbers and from 1,200 to 325 for restricted barbers. The type of training prescribed is limited to sanitation, safety, and laws and rules.

Cosmetology and Cosmetology Salons

Background

DBPR currently licenses and regulates cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers, and related salons in the state in accordance with ch. 477, F.S. The Board of Cosmetology processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

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."¹⁴

Becoming licensed as a cosmetologist requires 1,200 hours of training that typically costs between \$5,000 and \$20,000.¹⁵

In order to renew a cosmetology license or specialty registration, a licensee must complete 16 hours of continuing education biennially.¹⁶

Cosmetologists and specialists licensed in other states are eligible for a license by endorsement in Florida if they have been licensed for more than 1 year or have completed the required hours of education for the equivalent Florida license, and completed a 2 hour HIV/AIDS course.¹⁷

Specialty Registrations

A 'specialist' is defined as any person holding a specialty registration in one or more of the following cosmetology specialties:

- 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."¹⁸

A nail specialist may complete manicures and pedicures. A facial specialist may complete facials. A full specialist may complete manicures, pedicures, and facials.¹⁹

¹³ 476.144, F.S.

¹⁴ S. 477.013, F.S.

¹⁵ BeautySchools.com, *The Cost of Beauty School*, <https://beautyschools.com/the-cost-of-beauty-school/> (last visited Mar. 16, 2019).

¹⁶ S. 477.019(7)(a), F.S.

¹⁷ S. 477.019(1)(c), F.S.

¹⁸ S. 477.013, F.S.

¹⁹ R. 61G5-29.001, F.A.C.

To qualify for a specialist registration, the applicant must:

- be at least 16 years old;
- obtain a certificate of completion from an approved specialty education program, consisting of:
 - 240 hours of training for a nail specialty,
 - 260 hours of training for a facial specialty, and
 - 500 hours of training for a full specialty;²⁰ and
- submit an application for registration with DBPR with a \$75 registration fee.²¹

Currently, a person who applies polish or paint to fingernails and toenails or makeup for compensation needs a cosmetology or specialty license.²²

Hair Braiding, Hair Wrapping, and Body Wrapping Registrations

‘Hair braiding’ means the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts.”

‘Hair wrapping’ means the wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.

‘Body wrapping’ means a treatment program that uses herbal wraps for the purposes of cleansing and beautifying the skin of the body, but does not include the application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps, or manipulation of the body’s superficial tissue, other than that arising from compression emanating from the wrap materials.²³

A person who wishes to practice as a hair braider, hair wrapper, or body wrapper must:²⁴

- register with DBPR;
- pay the applicable \$25 registration fee; and
- for hair braiders, take a two-day board-approved 16-hour course that consists of:
 - 5 hours of HIV/AIDS and other communicable diseases,
 - 5 hours of sanitation and sterilization,
 - 4 hours of disorders and diseases of the scalp, and
 - 2 hours of studies regarding laws affecting hair braiding;
- for hair wrappers, take a one-day board-approved 6-hour course that consists of education in:
 - HIV/AIDS and other communicable diseases,
 - sanitation and sterilization,
 - disorders and diseases of the scalp, and
 - studies regarding laws affecting hair wrapping;
- for body wrappers, take a two-day board-approved 12-hour course that consists of education in:
 - HIV/AIDS and other communicable diseases,
 - sanitation and sterilization,
 - disorders and diseases of the skin, and
 - studies regarding laws affecting body wrapping.²⁵

²⁰ Ch. 61G5-22, F.A.C.

²¹ S. 477.0201, F.S.

²² Texas currently allows makeup application for compensation without a license. Tex. Occ. Code Ann § 1602.003(b)(3) (West 2015).

²³ S. 477.013(9)-(11), F.S.

²⁴ Described in ss. 477.013 and 477.0132, F.S.

²⁵ Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$250. Examples include: 1STOPCEU.com, *Home*, <http://www.floridahairbraider.com/> (last visited Mar. 16, 2019); and JT’s Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, http://www.jtbeautysalon.com/certified_classes.html (last visited Mar. 16, 2019).

Continuing education is not required of hair braiders, hair wrappers, and body wrappers.²⁶

There are 4,148 hair braiders, 1,045 hair wrappers, and 6,059 body wrappers currently. In fiscal year 2017-2018, for hair braiders, there were 27 complaints filed and 2 final orders; for hair wrappers, there were 8 complaints and 5 final orders; and for body wrappers, there were 4 complaints and 1 final order.²⁷

These actions generally do not involve consumer injury, but technical scope of practice violations (e.g., practicing with an expired license or failing to timely renew the license).²⁸

Cosmetology Salons

In Florida, cosmetology and specialty salons must be licensed.²⁹ Such salons are inspected periodically by DBPR, in accordance with sanitary standards set forth by the Board of Cosmetology.³⁰

Cosmetology services must be performed in a licensed cosmetology or specialty salon by a properly licensed professional,³¹ except when services are performed in connection with:³²

- a special event³³ by a properly licensed person who is employed by a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon.
- a client for reasons of ill health is unable to go to a licensed salon. Arrangements for the performance of such cosmetology services must be made through a licensed salon.
- the motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.

Effect of the Bill

The bill reduces the amount of training hours required for specialty registrations from:

- 240 hours to 150 hours for nail specialists,
- 260 hours to 165 hours for facial specialists, and
- 500 hours to 300 hours for full specialists.

The bill maintains the focus of training hours on sanitation and safety.

The bill adds weaving or interweaving commercial hair without the use of adhesives or bonders and the ability to use extensions or wefts to the scope of 'hair braiding.'

The bill removes all licensure and regulatory requirements³⁴ for:

- hair braiders,
- hair wrappers,
- body wrappers,
- nail polishers or painters, and
- makeup applicators.

The bill reduces the amount of biennial continuing education required of cosmetologists and specialists for license renewal from 16 hours to 10 hours.

²⁶ S. 477.019(7)(b), F.S.

²⁷ Email from Colton Madill, Deputy Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: License Numbers (Mar. 16, 2019).

²⁸ Florida Department of Business and Professional Regulation, Agency Analysis of 2017 Senate Bill 802, 4 (March 2, 2017).

²⁹ S. 477.025(1), F.S.

³⁰ S. 477.025(9), F.S.; Ch. 61G5-20, F.A.C.

³¹ S. 477.0263(1), F.S.

³² S. 477.0263(2)-(4), F.S.

³³ Defined by board rule as a wedding or fashion shows. R. 61G5-20.0015(1), F.A.C.

³⁴ The bill also makes conforming changes to cross-references.

The bill also removes the requirement that a licensed cosmetologist has to work through a salon for special events. Thus, allowing cosmetology services to be performed in connection with a special event by a licensed professional who is not employed by a licensed salon. It also removes the requirement that an appointment for a special event has to be made through a licensed salon.

The bill allows hair shampooing, hair cutting, hair arranging, nail polish removal, nail filing, nail buffing, and nail cleansing to be performed outside of a salon by a properly licensed professional who is not employed by a licensed salon, regardless if it is in connection with a special event.

The bill allows full license reciprocity in Florida for applicants with a cosmetology or specialty license from another state.

Auctioneers and Auctioneer Apprentices

Background

Auction businesses, auctioneers, and apprentice auctioneers are licensed and regulated in accordance with part VI of ch. 468, F.S., and by the Florida Board of Auctioneers within DBPR. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the auctioneering industry.

A license is required before any person can auction or offer to auction any property in this state, and the auctioneer practice act applies to all auctions in the state, with certain exceptions.³⁵

In order to qualify for licensure as an auctioneer, under s. 468.385, F.S., an applicant must:

- be 18 years or older;
- not have committed any act or offense in the state or any other jurisdiction which would constitute a basis for disciplinary action in Florida;
- have held an apprentice license and have served as an apprentice for 1 year or more, or have completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board; and
- pass the required examination.

An auctioneer may be disciplined or have a civil action brought against them by DBPR for one of the following violations:³⁶

- violating any trade or commerce law;
- misrepresenting property for sale at auction;
- failing to return money or property within 30 days of control of such money or property;
- false, deceptive, misleading, or untruthful advertising;
- bad faith or dishonesty in a sales transaction;
- using false bidders, cappers, or shills;
- comingling auction monies with personal money;
- refusing or neglecting to pay public moneys into the State Treasury when prescribed by law; and
- other violations of the practice act.

An auctioneer commits a third degree felony for certain violations of the practice act, including:³⁷

- failing to return money or property within 30 days of control of such money or property;
- bad faith or dishonesty in a sales transaction;
- using false bidders, cappers, or shills;

³⁵ S. 468.385(2), 383, F.S.

³⁶ S. 468.389, F.S.

³⁷ S. 468.391, F.S.

- comingling auction monies with personal money; and
- refusing or neglecting to pay the public moneys into the State Treasury when prescribed by law.

There is no continuing education requirement for auctioneers or auctioneer apprentices.

An 'auction business' is a "sole proprietorship, partnership, or corporation which in the regular course of business arranges, manages, sponsors, advertises, promotes, or carries out auctions, employs auctioneers to conduct auctions in its facilities, or uses or allows the use of its facilities for auctions."³⁸

There are 1,739 licensed auctioneers and 57 auctioneer apprentices currently. In fiscal year 2017-2018, there were 41 complaints received against auctioneers, 10 of which ended in a final order. There was 1 disciplinary order against an auctioneer apprentice.³⁹

Effect of the Bill

The bill repeals all provisions which require auctioneers, auctioneer apprentices, and auctioneer businesses to be licensed and regulated by DBPR.

The bill allows civil and criminal causes of action against auctioneers for failing to comply with statutory requirements.

Talent Agencies

Background

Talent agencies are regulated by part VII of ch. 468, F.S. 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.⁴⁰ 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."⁴¹

To qualify for a talent agency license, the applicant must be of good moral character and identify financial interests in any other business of like nature.⁴²

At the time of application, applicants for a talent agency license must pay an initial licensing fee of \$705 and a biennial renewal fee of \$405.⁴³

Licensed talent agencies are required to:⁴⁴

- File an itemized schedule of maximum fees, charges, and commissions;
- 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;
- Display a copy of the license conspicuously in the place of business;
- File a bond with DBPR 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;
- Maintain records including the application, registration, or contract of each artist;
- Provide a copy of the contract to the artist within 24 hours of the contract's execution; and
- Comply with talent agency regulations and prohibitions.

³⁸ S. 468.382(1), F.S.

³⁹ DBPR, *supra* note 27.

⁴⁰ S. 468.403(1), F.S.

⁴¹ S. 468.401, F.S.

⁴² S. 468.405, F.S.

⁴³ BPS, *supra* note 23 at 7.

⁴⁴ Ss. 468.406, 410, F.S.

Licensed talent agencies are prohibited from:⁴⁵

- Charging the artist a registration fee;
- 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; and
- 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 DBPR;
- Failing to provide information on an application regarding related businesses;
- Failing to maintain records;
- Requiring an 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 an 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.

There are 394 licensed talent agencies currently. There were no disciplinary orders against talent agencies in fiscal year 2017-2018.⁴⁶

Effect of the Bill

The bill repeals all provisions which require talent agents to be licensed and regulated by DBPR.

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 requires that bonding agencies must refuse to issue talent agency bonds to a talent agency if any its owners or operators have been convicted of sexual offender or sexual predator crimes. The bill also requires that a criminal history check be performed prior to issuing the bond.

The bill maintains civil and criminal causes of action against talent agents for failure to comply with statutory requirements.

Interior Designers

Background

Interior designers and related business organizations are regulated by part I of ch. 481, F.S., by the Board of Architecture and Interior Design.

⁴⁵ S. 468.410, F.S.

⁴⁶ DBPR, *supra* note 27.

Generally, 'Interior design' means "designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements⁴⁷ of a [commercial] building or structure."⁴⁸ Interior designers have the ability to sign, date, and seal drawings ("sign and seal"), plans, specifications, and reports filed for public record and for filings with local building departments to obtain a building permit related to interior design.⁴⁹

'Interior decorating,' which is differentiated from 'interior design' under Florida law, is limited to the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

Interior designers must complete 20 hours of continuing education each biennium to renew their license.⁵⁰

In fiscal year 2017-2018, there were 3,080 licensed interior designers and 1,057 interior design business licenses. There were 27 complaints received against interior designers, 5 of which ended in disciplinary action. There were no disciplinary orders against interior design businesses.⁵¹

Licensure

To practice interior design, an applicant must:

- Pay a \$30 fee,⁵²
- Have a combination of 6 years of relevant education and experience (which must include at least 2 years of education), and
- Pass an examination.

The required examination in Florida is a 3-part national examination administered by the National Council for Interior Design Qualification (NCIDQ), at a cost of \$1,065, including the application fee. Requirements to sit for the NCIDQ, including education and experience requirements, mirror Florida's licensure prerequisites.⁵³

Business entities, or persons operating under fictitious names, offering interior design services must also obtain a certificate of authorization. At least one principal officer or partner and all personnel who act on the business entity's behalf in the state must be registered interior designers. The initial license fee for a certificate of authorization is \$100 and the biennial renewal fee is \$125.⁵⁴

Exemptions

Florida law exempts the practice of *residential* interior design and interior decorating from licensure requirements.⁵⁵ Although s. 481.223(1)(c), F.S., prohibits an unlicensed actor from using the title 'interior designer' or words to that effect, this provision was found to be an unconstitutional restriction on free speech in 2010.⁵⁶ Other licensure requirements which faced constitutional challenges as limitations on 1st

⁴⁷ "Nonstructural element" means an element which does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building. S. 481.203(10), F.S.

⁴⁸ S. 481.203(8), F.S.

⁴⁹ S. 481.221, F.S.

⁵⁰ R. 61G1-21.001, F.A.C.

⁵¹ DBPR, *supra* note 27.

⁵² R. 61G1-17.002, F.A.C.

⁵³ See <http://www.ncidq.org>

⁵⁴ R. 61G1-17.002, F.A.C.

⁵⁵ S. 481.229(6)(a), F.S.

⁵⁶ *Locke v. Shore*, 682 F.Supp.2d 1283, 1295 (N.D.Fla., 2010).

amendment free speech⁵⁷ and interstate commerce⁵⁸ and as violations of due process and equal protection were not successful.⁵⁹

Others are also exempted from licensure requirements, including employees of retail establishments providing interior decorator services⁶⁰ on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, and a manufacturer of commercial food service equipment who prepares designs, specifications, or layouts for the sale or installation of such equipment.⁶¹

Other States

Florida is one of 6 U.S. states or territories requiring interior designers to be licensed. Approximately 20 other states offer title acts, allowing only candidates meeting statutory requirements to hold themselves out as 'registered interior designers.'⁶²

Effect of the Bill

The bill repeals all licensure and regulatory requirements for interior designers and interior design businesses.⁶³

The bill allows interior designers who have passed the NCIDQ examination to submit plans for interior design to a local permitting agency if such agency requires such plans.

The bill changes the name of the Board of Architecture and Interior Design to the Board of Architecture and changes the makeup of the board to reflect the deregulation of the practice of interior design.

Architecture

Present Situation

Architects and related business organizations in the state are regulated by ch. 481, pt. I, F.S., and licensed by the Board of Architecture and Interior Design.

"Architecture services" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.⁶⁴

An architecture business corporation, limited liability company, or partnership offering architecture services to the public must obtain a certificate of authorization.⁶⁵ One or more of the principal officers of the

⁵⁷ *Locke v. Shore*, 634 F.3d 1185, 1191 (11th Cir. 2011) ("Because the license requirement governs 'occupational conduct, and not a substantial amount of protected speech,' it does not implicate constitutionally protected activity under the First Amendment.").

⁵⁸ *Id.* at 1193 ("Out-of-state unlicensed interior designers may practice in commercial settings in Florida 'under the instruction, control or supervision' of a licensed architect or while 'acting as a contractor in the execution of work designed by an architect.'").

⁵⁹ *Id.* at 1196 ("Thus, the fact that, after Florida passed its license requirement, other states have considered and rejected the notion that the unlicensed practice of interior design poses safety concerns, is of no consequence.").

⁶⁰ S. 481.203(15), F.S. Services limited to the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

⁶¹ S. 481.229(6), F.S.

⁶² Commercial Interior Design Association, *State Information*, <http://advocacy.iida.org/#interiordesignlaws> (last visited Mar. 16, 2019).

⁶³ The bill makes conforming changes to cross-references.

⁶⁴ S. 481.206(6), F.S.

⁶⁵ S. 481.219(2)-(3), F.S.

corporation or limited liability company, or one or more partners of the partnership, must be a licensed architect. Applicants for an architecture business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.⁶⁶ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

Every 2 years, architects must complete 24 continuing education hours. Of those hours, 2 must be devoted to specialized or advanced courses on the Florida Building Code.⁶⁷

Effect of the Bill

The bill removes the requirement that architects obtain a separate business license (certificate of authorization) in addition to an individual license, but continues to allow architecture firms to operate in the state. The bill provides that architects qualify their business organizations with their individual licenses, and architects must inform DBPR of any change in their relationship with the qualified business. The business has 60 days to obtain a replacement qualifying architect. The executive director or chair of the Board of Architecture may authorize another registered architect employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

The bill requires the qualifying agent to provide notice to DBPR 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 all projects of the business organization and upon termination of his or her employment with a business organization for which he or she qualifies, the agent must notify DBPR of the termination within 30 days.

The bill removes the requirement that a portion of continuing education courses must be devoted to the Florida Building Code.

Professional Engineers

Background

The practice of engineering is regulated by the Florida Board of Professional Engineers (FBPE). Unlike most DBPR professions, the administrative, investigative, and prosecutorial services for FBPE are not provided by DBPR. DBPR contracts with Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.⁶⁸

To practice engineering through a business organization, such organization must be licensed and approved by FEMC. One or more of the principal officers of the business organization, or one or more partners of the partnership, must be a licensed engineer. Applicants for an engineering business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125. There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.⁶⁹

In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination, and then the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant is required to have graduated from an approved

⁶⁶ Rr. 61G1-17.001, 17.002, F.A.C.

⁶⁷ S. 481.215(5), F.S.; R. 61G1-24.001, F.A.C.

⁶⁸ S. 471.038(3), F.S.

⁶⁹ S. 471.023, F.S.

engineering curriculum of 4 years or more in a FBPE approved school, college, or university, and have a record of four years of active engineering experience.⁷⁰

A person who is licensed in another state is eligible for a professional engineering license by endorsement in Florida if they:⁷¹

- have graduated from an FBPE-approved engineering program, have passed a licensing examination that is substantially equivalent to the fundamentals examination **and** principles and practice examination, and have satisfied the experience requirements; or
- hold a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

FBPE deems that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional-level engineering experience.⁷²

FBPE also deems that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination **and** the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 25 years and has had 30 years of continuous professional-level engineering experience.⁷³

Effect the Bill

The bill reduces the number of years that a professional engineer must be licensed in another jurisdiction in order to be deemed to have passed the licensure examinations for a license by endorsement. If such applicant has been licensed in another jurisdiction for:

- 10 years, they are deemed to have passed the fundamentals examination;
- 15 years, they are deemed to have passed both the fundamental examination and the principles and practices examination.

The bill removes the requirement that engineers obtain a separate business license (certificate of authorization) in addition to an individual license, but continues to allow engineering firms to operate in the state. The bill requires a licensed engineer to be responsible for the firm and to qualify their business organizations with their individual licenses. The bill provides that engineers must inform DBPR of any change in their relationship with the qualified business within 24 hours, and gives the business 60 days to obtain a replacement qualifying engineer. The executive director or chair of FBPE may authorize another registered engineer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

The bill requires the qualifying agent to provide notice to DBPR if they begin to conduct business in their own name or with another business organization. The qualifying agent or the new business organization must submit the required application information.

The qualifying agent must ensure responsible supervising control of all projects of the business organization.

Landscape Architecture

Background

⁷⁰ S. 471.013, F.S.

⁷¹ S. 471.015(3), F.S.

⁷² S. 471.015(5), F.S.

⁷³ *Id.*

Landscape architects and related business organizations are regulated by ch. 481, pt. II, F.S., and licensed by the Board of Landscape Architecture.

“Landscape architecture services” means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials.⁷⁴

In order to be licensed as a landscape architect, a person must:

- complete:
 - a landscape architecture degree program approved by the Landscape Architectural Accreditation Board, or
 - 6 years of practical experience, with some credit available for education credits;⁷⁵
- pass the nationally recognized Landscape Architecture Registration Examination (LARE);⁷⁶ and
- have 1 year of practical experience, not including any experience used to qualify to take the examination.⁷⁷

A person who is licensed in another state is eligible for a landscape architecture license by endorsement in Florida if they.⁷⁸

- have graduated from an approved program or have related experience, have an additional year of practical experience, and have passed a licensing examination which is substantially equivalent to the LARE; or
- hold a valid license to practice landscape architecture issued by another state or territory of the United States, if the criteria for issuance of such license were substantially identical to the licensure criteria which existed in this state at the time the license was issued.

If an applicant for a license by endorsement has been licensed for at least 5 years in another jurisdiction without disciplinary history, such applicant does not have to complete the additional year of practical experience.⁷⁹

A landscape architecture corporation or partnership may offer landscape architecture services if:

- one or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect; and
- the corporation or partnership has been issued a certificate of authorization by the board.⁸⁰

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450.00 and a biennial renewal fee of \$337.50.⁸¹ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

Effect of the Bill

The bill provides that an applicant who holds both a bachelor’s degree of landscape architecture and a master’s degree of landscape architecture does not have to demonstrate 1 year of practical experience in landscape architecture to qualify for licensure.

⁷⁴ S. 481.303(7), F.S.

⁷⁵ S. 481.309(1)(b), F.S.

⁷⁶ R. 61G10-11.001, F.A.C.

⁷⁷ S. 481.310, F.S.

⁷⁸ S. 481.311(3), F.S.

⁷⁹ R. 61G10-11.004(2)(e), F.A.C.

⁸⁰ S. 481.319(1), F.S.

⁸¹ R. 61G10-12.002, F.A.C.

The bill provides that a person licensed in another state is also eligible for a license by endorsement in Florida if they have:

- held a valid license to practice landscape architecture in another state or territory of the United States for at least 10 years before the date of application, and
- successfully completed an examination that is equivalent to or more stringent than the LARE.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

The bill also provides that an applicant who has met the requirements to be qualified for a license by endorsement except for successful completion of an examination that is equivalent to or more stringent than the LARE examination may take the LARE without completing additional education requirements.

The bill repeals all provisions which require licensees to obtain a certificate of authorization to practice landscape architecture through a business organization, while still continuing to allow such businesses to operate in the state. Instead, a licensed landscape architect must apply to qualify the business organization as a qualifying agent if they propose to engage in the practice of landscape architecture as a business organization.

The bill provides that a corporation or partnership may be qualified by a landscape architect if one or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect.

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

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

Geology

Background

A person must be licensed as a professional geologist by the Board of Professional Geologists to practice geology in Florida, which includes the performance of, or offer to perform, geological services, including, but not limited to, consultation, investigation, evaluation, planning, and geologic mapping.⁸²

In order for a person with a license in another state to be eligible for a license by endorsement in Florida, an applicant must:⁸³

- be at least 18 years of age;
- not have committed any act or offense which would constitute the basis for disciplining a Florida professional geologist;
- have graduated with a degree in geology, or other degree acceptable to the board with at least 30 semester hours or 45 quarter hours of geological coursework;
- have at least 5 years of professional geological work experience;
- have an active license in good standing in a jurisdiction of the United States;
- have passed an examination which has been approved by the board as substantially equivalent to or more stringent than those of Florida; and
- have successfully passed the laws and rules examination.

However, DBPR may not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of the practice act.

⁸² S. 492.102(7), F.S.

⁸³ S. 492.108, F.S.

A firm, corporation, or partnership may offer geology services to the public if:

- the entity has on file the name and license number of its affiliated licensed geologists;
- the entity has been issued a certification of authorization by DBPR;
- all final geological documents prepared or approved for the use of the entity shall be dated and signed and sealed by the licensed geologist;
- the entity is not relieved of personal liability due to a licensed geologist practicing at the entity;
- the entity files an application with DBPR.⁸⁴

Any change in the business operating relationship between the business organization and the qualifying geologist must be reported to DBPR within 30 days.

Applicants for a geology business certificate of authorization must pay an application fee of \$350 and a biennial renewal fee of \$350.⁸⁵ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

Effect of the Bill

The bill allows a person licensed in another state to also qualify for a license by endorsement in Florida if they have:

- held a valid license to practice geology in another state, trust, territory, or possession of the United States for at least 10 years before the date of application, and
- has successfully completed a state, regional, national, or other examination that is equivalent to or more stringent than the Florida examination.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

If such applicant has met the requirements for a license by endorsement except successful completion of an examination that is equivalent to or more stringent than the examination required by the board, such applicant may take the examination required by the board.

The bill repeals all provisions which require a certificate of authorization to practice geology through a business organization, while continuing to allow such organizations to continue to operate in the state. Instead, a licensed geologist must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of geology as a firm, corporation, or partnership. The qualifying agent is required to update DBPR of any changes in the relationship between himself or herself and the business organization within 30 days.

Asbestos Abatement Business Organization

Background

Asbestos consultants and contractors are regulated by ch. 469, F.S., and licensed by DBPR. Asbestos abatement means the removal, encapsulation, enclosure, or disposal of asbestos.⁸⁶

An asbestos consultant may:

- conduct an asbestos survey,
- develop an operation and maintenance plan,
- monitor and evaluate asbestos abatement, and
- prepare asbestos abatement specifications.⁸⁷

⁸⁴ S. 481.319(1), F.S.

⁸⁵ R. 61G10-12.002, F.A.C.

⁸⁶ S. 469.001(1), F.S.

⁸⁷ S. 469.003, F.S.

An asbestos contractor may perform the work of an asbestos consultant and also conduct asbestos abatement work.⁸⁸

If an asbestos consultant or contractor practices through a business organization, 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. If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, another qualifying agent must qualify the business organization within 60 days after the termination, and may not engage in the practice of asbestos abatement until it is qualified.⁸⁹

Applicants for an asbestos abatement business license pay an application fee of \$300, an initial licensure fee of \$250, and a biennial renewal fee of \$250 and there are no inspection requirements.⁹⁰

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 prove they are qualified to supervise and are financially responsible.

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

Veterinary Medicine

Background

Veterinary medical practice is regulated by ch. 474, F.S., and veterinarians are licensed by the Board of Veterinary Medicine.⁹¹

A veterinarian is a health practitioner licensed by the board to engage in the practice of veterinary medicine in Florida,⁹² which is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.⁹³

To become a licensed veterinarian, an applicant must have:

- graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education (AVMAE); **or** from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World (AVMARVC) and obtained a certificate from the Education Commission for Foreign Veterinary Graduates;
- successfully completed the North American Veterinary Licensing Examination (NAVLE), or an examination determined by the board to be equivalent; and
- successfully completed an examination of the laws and rules governing the practice of veterinary medicine in Florida.⁹⁴

⁸⁸ S. 469.003(3), F.S.

⁸⁹ S. 469.006, F.S.

⁹⁰ R. 61E1-3.001, F.A.C.

⁹¹ See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

⁹² See s. 474.202(11), F.S.

⁹³ See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

⁹⁴ R. 61G18-11.002, F.A.C.

The Program for the Assessment of Veterinary Education Equivalence (PAVE) is a common alternative pathway for graduates of international, non-accredited programs to practice in the United States. PAVE evaluates such programs on behalf of participating American Association of Veterinary State Boards.⁹⁵

A person who is licensed in another state or country is eligible for a license by endorsement in Florida if they:⁹⁶

- successfully complete an examination of the laws and rules governing the practice of veterinary medicine in Florida; and
- either:
 - hold a valid license to practice veterinary medicine in another jurisdiction of the United States for the 3 years immediately preceding the application for licensure, provided that the requirements for licensure are equivalent to or more stringent than a Florida license; or
 - have graduated from an AVMAE or AVMARVC program and have successfully completed an examination which is equivalent to or more stringent than the NAVLE.

DBPR may not issue a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.⁹⁷

A “limited-service veterinary medical practice” means offering or providing limited types of veterinary services for a limited time at any location that has a primary purpose other than providing veterinary medical service at a permanent or mobile establishment. Such practice must provide veterinary medical services for privately owned animals that do not reside at that location.⁹⁸ Such practice must obtain a permit and must register each location where a limited service clinic is held. A licensed veterinarian must supervise the limited practice.⁹⁹

The board establishes minimum standards for the operation of limited service veterinary medical practices,¹⁰⁰ which currently allows such practices to offer vaccinations, immunizations, and parasitic control services.¹⁰¹

Effect of the Bill

The bill allows graduates of a veterinary medicine program recognized by the PAVE to be eligible for licensure as a veterinarian.

The bill codifies the current board rule allowing that limited service veterinary practices to perform vaccinations, immunizations, and parasitic control, and adds that such practices may perform microchipping.

The bill allows applicants for a license by endorsement who have been licensed in a jurisdiction of the United States for 3 years to also be eligible for licensure in Florida as long as they have completed a licensing examination that is equivalent to or more stringent than the NAVLE.

Construction Contractors

Background

⁹⁵ American Association of Veterinary State Boards, *International Pathways*, <https://www.aavsb.org/pave/> (last visited Mar. 14, 2019).

⁹⁶ S. 474.217(1), F.S.

⁹⁷ S. 474.217(2), F.S.

⁹⁸ S. 474.202(6), F.S.

⁹⁹ S. 474.215(7)-(8), F.S.

¹⁰⁰ S. 474.215(7), F.S.

¹⁰¹ R. 61G18-15.007, F.A.C.

Construction contractors are regulated by part I of ch. 489, F.S., and licensed by the Construction Industry Licensing Board (CILB).

In order to become a construction contractor, an applicant for a license by examination must meet the following criteria:¹⁰²

- be of good moral character;
- be at least 18 years of age;
- successfully pass the certification examination; and
- meet eligibility requirements according to a combination of education and experience as approved by the board, which must include at least 1 year of related experience.

By CILB rule, when an applicant passes an examination and wishes to use those test scores for a license upgrade or a different license type, such passage is only valid for 4 years.¹⁰³

A person who is licensed in another state is eligible for a license by endorsement in Florida if the:¹⁰⁴

- criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; or
- state or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state.

An unlicensed person may perform work that falls under the scope of contracting if it is casual, minor, or inconsequential in nature, and the aggregate contract price for all labor and materials is less than \$1,000, subject to certain requirements. This is generally called the "handyman exception." The "handyman exception" was enacted in 1979 and the amount for the exception has not been updated since.¹⁰⁵

DBPR's umbrella chapter allows DBPR or a board to deny a license based on their license disciplinary history in any jurisdiction, but the construction contracting practice is not specific on this topic.¹⁰⁶

Effect of the Bill

The bill clarifies that a licensure examination passage does not expire and may be used at any time to qualify for another license.

The bill allows an applicant for a license by examination who has a 4 year building construction degree, or another degree approved by the CILB, to be deemed to have passed the licensure examination.

The bill allows an applicant to also qualify for a license by endorsement if they have:

- held a valid license to practice the same type of construction contracting in another state or territory for at least 10 years before the date of application, and
- complied with workers' compensation requirements, shown proof of financial health of their business organization, and submitted fingerprints.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

The bill increases the maximum price for a "handyman exception" contract to \$2,500.

¹⁰² S. 489.111(2)(c)1.-3., F.S.

¹⁰³ R. 61G4-16.005, F.A.C.

¹⁰⁴ S. 489.115(3), F.S.

¹⁰⁵ S. 489.103(9), F.S.

¹⁰⁶ S. 455.227(1)(f), F.S.

The bill expressly states that the CILB may evaluate an applicant's prior licensure disciplinary history when making a decision to grant a license by endorsement.

Electrical Contractors

Background

Electrical and alarm system contractors are regulated by part II of ch. 489, F.S., and licensed by the Electrical Contractor Licensing Board (ECLB).

In order to become an electrical contractor or alarm system contractor, a person must submit an application to DBPR and meet the following criteria:

- be at least 18 years of age,
- be of good moral character,
- successfully pass the certification examination, and
- meet eligibility requirements according to a combination of education and experience as approved by the board.¹⁰⁷

Electrical contractors and burglar alarm contractors must complete 14 hours of continuing education each biennium to renew their license. Such continuing education must include at least 7 hours on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, 1 hour on business practices, and for alarm system contractors and electrical contractors engaged in alarm system contracting, 2 hours on false alarm prevention.¹⁰⁸

A person who is licensed in another state is eligible for a license by endorsement in Florida if the:

- criteria for issuance of such license were substantially equivalent to Florida's current certification criteria; or
- state or territory has entered into a reciprocal agreement with the board for the recognition of contractor licenses issued in that state, based on criteria for the issuance of such licenses that are substantially equivalent to the criteria for certification in this state.

Only examinations from North Carolina, California, and Georgia have been found to be substantially similar to Florida.¹⁰⁹

A "burglar alarm system agent" means a person:

- Who is employed by a licensed alarm system contractor or licensed electrical contractor; and
- Whose specific duties include any of the following activities of alarm system contracting: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring an intrusion or burglar alarm system for compensation.¹¹⁰

Before an electrical contractor or alarm system contractor may employ an agent, the agent must complete a minimum of 14 hours of training from an ECLB approved provider, which includes basic alarm system electronics in addition to related training including CCTV and access control training, with at least 2 hours of training in the prevention of false alarms.¹¹¹

Effect of the Bill

The bill allows an applicant to also qualify for a license by endorsement if they have:

¹⁰⁷ S. 489.511(1)(a) and (b), F.S.

¹⁰⁸ S. 489.517(4), F.S.

¹⁰⁹ Florida Department of Business and Professional Regulation, Reciprocity and Endorsement, 6 (2018).

¹¹⁰ S. 489.505(25), F.S.

¹¹¹ S. 489.518(1)(b), F.S.

- held a valid license to practice electrical or alarm system contracting in another state or territory for at least 10 years before the date of application, and
- complied with workers' compensation requirements, shown proof of financial health of their business organization, and is of good moral character.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

The bill reduces the amount of continuing education required for electrical and alarm system contractors every 2 years from 14 hours to 7 hours, and reduces the amount of required hours devoted to technical subjects to 1 hour.

The bill allows burglar alarm system agents to have 90 days to complete their required 14 hour training course after employment by an electrical or alarm system contractor.

Building Code Administrators, Inspectors, and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by part XII of ch. 468, F.S., and licensed by the Florida Building Code Administrators and Inspectors Board (BCAIB).¹¹²

A building code administrator, otherwise known as a building official, supervises building code activities, including plans review, enforcement, and inspection.¹¹³

A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. An inspector's ability to practice is limited to the category or categories in which the inspector has been certified. The inspector categories are:

- Building inspector
- Coastal construction inspector
- Commercial electrical inspector
- Residential electrical inspector
- Mechanical inspector
- Plumbing inspector
- One and two family dwelling inspector
- Electrical inspector¹¹⁴

A one and two family dwelling inspector may inspect and determine that one and two family dwellings and accessory structures are constructed in accordance with the provisions of the building, plumbing, mechanical, accessibility, and electrical codes.¹¹⁵

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. A plans examiner's ability to practice is limited to the category or categories the plans examiner is certified in. The plans examiner categories are:

- Residential plans examiner
- Building plans examiner
- Plumbing plans examiner
- Mechanical plans examiner
- Electrical plans examiner¹¹⁶

¹¹² S. 468.605, F.S.

¹¹³ S. 468.603(1), F.S.

¹¹⁴ S. 468.603(4), F.S.

¹¹⁵ S. 468.603(4)(f), F.S.

¹¹⁶ S. 468.603(7), F.S.

In order to become licensed, building code administrators, inspectors, and plans examiners must take a licensing exam in the category they seek licensure.

In order to sit for the administrator exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:¹¹⁷

- have 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions; or
- have a combination of no more than 5 years of postsecondary education in the field of construction or related field and at least 5 years of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent; and completed training on ethics and Florida laws relating to administrators.

In order to sit for the plans examiner or inspector exam, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:¹¹⁸

- have 5 years of combined relevant experience;
- have 4 years of combined postsecondary education and relevant experience;
- have 4 years of combined technical education and relevant experience;
- complete an approved cross-training program and have at least 2 years of experience;
- hold a standard certificate issued by the BCAIB or a firesafety inspector license, and
 - have at least 5 years of relevant experience as an inspector or plans examiner;
 - have a minimum of 3 years of experience in inspection or plan review, and completed an inspector or plans examiner training program in the new category sought;
 - have a minimum of 5 years of experience in firesafety inspection, and completed a training program of not less than 200 hours in the new category sought; or
 - complete an approved training program of not less than 300 hours in inspection or plans review; and a minimum of 2 years of experience in inspection; plans review; fire code inspections and fire plans review of new buildings as a firesafety inspector; or construction;or
- complete a 4 year internship certification program.

A provisional license may be granted to a person who is qualified to sit for the administrator, inspector, or plans examiner exam, but has not yet taken the exam. A provisional license allows a person to engage in the duties of whichever licensure category the license is granted for the duration of such license. Provisional licenses are valid for 1 year, and may be renewed by the BCAIB **only** for just cause for up to 2 more years. However, an applicant who is completing an internship program for a plans examiner license may apply to the BCAIB for a provisional certificate¹¹⁹ that is valid for the duration of the internship program.

A person who is licensed in another state is eligible for a building code administrator, inspector, or plans examiner license by endorsement in Florida if they:¹²⁰

- have met experience, educational, or training program requirements;
- completed the Florida principle and practice exam; and
- completed the relevant International Codes Council (ICC) exams for the category sought.

Effect of the Bill

The bill renames a “one and two family dwelling inspector” to residential inspectors” and expands the scope to include inspecting one-family, two-family, or three-family residences not exceeding two habitable

¹¹⁷ S. 468.609(3), F.S.

¹¹⁸ S. 468.609(2), F.S.

¹¹⁹ S. 468.609, F.S.

¹²⁰ S. 468.613, F.S.; R. 61G19-6.0035(4), F.A.C.

stories above no more than one uninhabitable story and accessory use structures in connection therewith for compliance with the building, plumbing, mechanical, accessibility, and electrical codes.

The bill reduces the amount of experience and education required for certain pathways to become a building code inspector or plans examiner. The requirements are reduced to:

- 4 years from 5 years for combined relevant experience,
- 3 years from 4 years for combined post-secondary education and relevant experience, and
- 3 years from 4 years for combined technical education and relevant experience.

The bill provides that a person licensed in another state is also eligible for a license by endorsement in Florida if they:

- are at least 18 years of age;
- are of good moral character;
- hold a valid license to practice as a building code administrator, inspector, or plans examiner in another state or territory of the United States for at least 10 years before the date of application, and
- successfully completed an applicable examination administered by the ICC.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

The bill extends the period of time for which a provisional license is initially valid, from 1 year to 2 years.

Home Inspectors

Background

Home inspectors are regulated by part XV of ch. 468, F.S., and licensed by the Home Inspection Services Licensing Program in DBPR.

In order to obtain licensure as a home inspector, a person must:

- have good moral character;
- carry required liability insurance;
- complete a course study of at least 120 hours; and
- pass the required examination.¹²¹

A person who is licensed in another state is eligible for a license by endorsement in Florida who:¹²²

- is of good moral character;
- holds a valid license to practice home inspection services in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination.

DBPR may not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of the practice act until the investigation is complete and disciplinary proceedings have been terminated.¹²³

Effect of the Bill

The bill allows an applicant to also qualify for a license by endorsement if they have:

¹²¹ S. 468.8313, F.S.

¹²² S. 468.8414(3), F.S.

¹²³ S. 468.8314(3), F.S.

- a liability insurance policy as required by other licensees; and
- held a valid license to practice home inspection services in another state or territory of the United States for at least 10 years before the date of application.

Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

Mold Remediation Professionals

Background

Mold-related service professionals are regulated by part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program in DBPR.

In order to be licensed as a mold assessor or mold remediator, a person must:

- be of good moral character,
- have required liability insurance, and
- have:
 - at least a 2-year associate of arts degree with certain course requirements, and a minimum of 1 year of experience; or
 - a high school diploma or the equivalent with a minimum of 4 years of experience.¹²⁴

A person who is licensed in another state is eligible for a license by endorsement in Florida who:¹²⁵

- is of good moral character;
- holds required general liability insurance;
- holds a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the Florida examination required by this part.

Effect of the Bill

The bill allows an applicant to also qualify for a license by endorsement if they have held a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States for at least 10 years before the date of application. Such applications for a Florida license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active.

Certified Public Accountants

Background

The Board of Accountancy within DBPR is charged with regulating the practice of public accountancy in Florida. To be licensed as a certified public accountant, a person must:¹²⁶

- be of good moral character,
- pass the licensure exam, and
- have at least 150 semester hours of education, with a focus on accounting and business.

An applicant is eligible for a license by endorsement who:¹²⁷

- is of good moral character;

¹²⁴ S. 468.8413(2), F.S.

¹²⁵ S. 468.8414(3), (4), F.S.

¹²⁶ S. 473.308(2)-(5), F.S.

¹²⁷ S. 468.8414(3), (4), F.S.

- has completed 80 hours of CE if it has been at least 2 years since passing the licensing examination;¹²⁸ and
- either:
 - is not licensed, but has otherwise met the licensing requirements and has passed a licensing examination that is substantially equivalent to the Florida examination; or
 - holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license are substantially equivalent to a Florida license or is otherwise permitted.

Effect of the Bill

The bill removes the requirement that applicants for a license by endorsement who passed a licensing exam more than 2 years prior to the date of application must complete 80 hours of continuing education hours before they are eligible for such license.

Florida Building Commission

Background

In 2000, the Legislature authorized implementation of the first statewide Florida Building Code (Code), which replaced all local building codes.¹²⁹ In 2004, the state adopted the International Code Council's I-Codes as the base of the Code to create standards used in design, building, and compliance processes to "construct safe, sustainable, affordable, and resilient structures."¹³⁰

The Florida Building Commission (Commission) was created to implement the Code. The Commission, which is housed within DBPR, is a 27-member technical body responsible for the development, maintenance, and interpretation of the Code. The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate, and include design professionals, contractors, and government experts in the various disciplines covered by the Code. Members, who must be able to do business in the state and must be actively engaged in the designated profession, include the following:

- One architect;
- One structural engineer;
- One air-conditioning or mechanical contractor;
- One electrical contractor;
- One member from fire protection engineering or technology;
- One general contractor;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One residential contractor;
- Three members who are municipal or district code enforcement officials, one of whom is also a fire marshall;
- One member who represents the Department of Financial Services;
- One member who is a county code enforcement official;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state;
- One member of the manufactured buildings industry;
- One mechanical or electrical engineer;

¹²⁸ R. 61H1-29.003, F.A.C.

¹²⁹ *Id.* & DBPR, *Overview of the Florida Building Code*, <https://www.floridahousing.org/.../aboutflorida/.../overview-of-the-florida-building-commission-and-standard.pptx> (last visited on Oct. 18, 2017).

¹³⁰ International Code Council, *About the ICC*, <http://www.iccsafe.org/about-icc/overview/about-international-code-council/> (last visited on Oct. 18, 2017) & International Code Council, *ICC Code Development Process*, <https://cdn-web.iccsafe.org/wp-content/uploads/ICC-Code-Development-Process.pdf> (last visited on Oct. 18, 2017).

- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry;
- One member who is a representative of the commercial building owners and managers industry;
- One member who is a representative of the insurance industry;
- One member who is a representative of public education;
- One member who is a swimming pool contractor;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);
- One member who is a representative of a natural gas distribution system;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is the chair.¹³¹

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.¹³² TACs are made up of Commission members and other parties who advise the Commission on declaratory statements, proposed amendments, and any other areas of interest of the Commission.¹³³

Effect of the Bill

The bill reduces the number of members on the Commission from 27 to 17. The membership under the bill is as follows:

- One licensed architect with at least 5 years of experience in the design and construction of buildings designated for Group E or Group I occupancies by the Florida Building Code;
- One structural engineer;
- One air-conditioning contractor, mechanical contractor, or mechanical engineer;
- One electrical contractor or electrical engineer;
- One certified general contractor or one certified building contractor. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, the Florida Home Builders Association, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One certified residential contractor;
- Three members who are municipal, county, or district code enforcement officials, one of whom is also a fire marshal;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in the state which complies with or is certified to be compliant with the requirements of the Americans with Disability Act of 1990, as amended.;
- One member of the manufactured buildings industry;
- One member of the building products manufacturing industry;
- One member who is a representative of the insurance industry;
- One member who is a swimming pool contractor; and
- One member who is a representative of a natural gas distribution system.

¹³¹ S. 553.74, F.S.

¹³² DBPR, *Florida Building Code Online*, https://www.floridabuilding.org/c/c_commission.aspx (last visited on Oct. 18, 2017).

¹³³ DBPR, *Florida Building Code Standards*, http://www.myfloridalicense.com/dbpr/bcs/program_committees.html (last visited on Oct. 18, 2017), & Rule 61G20-2.001 F.A.C.

The bill removes the following members from the current makeup of the Commission:

- One member from fire protection engineering or technology;
- One member who represents the Department of Financial Services;
- One member who is a county code enforcement official;
- One member who is a representative of a municipality or a charter county;
- One member who is a representative of the commercial building owners and managers industry;
- One member who is a representative of public education;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is solely the chair.

Employee Leasing Companies

Background

Generally, 'employee leasing' means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions. The Board of Employee Leasing Companies under DBPR licenses and regulates employee leasing companies.¹³⁴

Currently, if an applicant is denied a license, or a licensee had their license revoked, they are ineligible to reapply for a license for a period of 1 year following final agency action. This time restriction does not apply to administrative denials or revocations entered because.¹³⁵

- the applicant or licensee has made an inadvertent error or omission on the application;
- the experience documented to the board was insufficient at the time of the previous application; or
- DBPR is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency.

Effect of the Bill

The bill removes the 1 year time restriction for reapplication for initial applicants who were denied a license, but retains the time restriction for licensees who had their license revoked.

Pugilistic Timekeepers and Announcers

Background

Chapter 548, F.S., governs the Florida State Boxing Commission (FSBC) under DBPR. The function of the FSBC is to license and regulate pugilistic events, including professional boxing, kickboxing, and mixed martial arts. The FSBC ensures that all matches are conducted in accordance with provisions of state laws and rules. The FSBC designates employees to attend the matches, appoints match officials, and ensures the matches are held in a safe and fair manner.

¹³⁴ S. 468.522, F.S.

¹³⁵ S. 468.524(4), F.S.

A 'timekeeper' is an individual who is assigned the duties to maintain the time for each round during a pugilistic event.¹³⁶

An 'announcer' is an individual who has the authority to make all announcements, including the result of the event, during a pugilistic event.¹³⁷

In order to obtain a license, a timekeeper or announcer applicant must:

- be at least 18 years of age and
- pay an application fee of \$50.

There are 13 licensed timekeepers and 8 licensed announcers currently. There were no disciplinary orders against timekeepers or announcers in fiscal year 2017-2018.¹³⁸

Effect of the Bill

The bill deletes all licensure and regulatory requirements for boxing announcers and timekeepers.¹³⁹

Yacht and Ship Broker Branch Offices

Background

Yacht and ship brokers, salespersons, and related business organizations are regulated by ch. 326, F.S., and licensed by the Yacht and Ship Broker's Section of DBPR.

Each yacht and 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.

Applicants for a branch office license or a biennial renewal pay a \$100 fee.¹⁴⁰ There are no requirements of the branch office other than to obtain licensure and there are no inspection requirements.

There are 77 yacht broker branch offices currently. There were no disciplinary orders against branch offices in fiscal year 2017-2018.¹⁴¹

Effect of the Bill

The bill amends s. 326.004(13), F.S., by 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

Labor organizations and related business agents are regulated by part I of ch. 447, F.S., and they are licensed by the Labor Organizations Program at DBPR.¹⁴²

¹³⁶ R. 61K1-3.0001(19), F.A.C.

¹³⁷ R. 61K1-3.0001(1), F.A.C.

¹³⁸ DBPR, *supra* note 27.

¹³⁹ The bill also makes conforming changes to cross-references.

¹⁴⁰ R. 61B-60.002, F.A.C.

¹⁴¹ DBPR, *supra* note 27.

¹⁴² This does not include certain public employee organizations, which are regulated by the Public Employees Relations Commission, an independent, quasi-judicial agency described in pt. II of ch. 447, F.S.

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.”¹⁴³ In Florida, all labor organizations are required to register with DBPR and all business agents of labor organizations must obtain a license.

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;
- Soliciting or receiving from any employer any right or privilege for employees.”¹⁴⁴

Applicants for a business agent license shall pay \$25 fee for licensure. Labor organization applicants must pay an annual fee of \$1.

The National Labor Relations Board (NLRB) is an independent federal entity which provides the same type of union oversight as DBPR and is active in Florida, maintaining offices in Tampa and Miami. The United States Department of Labor, Office of Labor Management Standards also registers unions at the federal level.¹⁴⁵

There are 299 licensed labor organizations and 417 associated business agents currently. There were no disciplinary orders against labor organizations or business agents in fiscal year 2017-2018.¹⁴⁶

Effect of the Bill

The bill repeals the licensing requirements and certain other provisions related to labor organizations. Specifically, the bill repeals:

- s. 447.04, F.S., regarding the licensure of business agents;
- s. 447.041, F.S., regarding hearings provided to licensees pursuant to ch. 120, F.S.;
- s. 447.045, F.S., regarding confidential information obtained by DBPR during an investigation;
- s. 447.06, F.S., regarding the registration of labor organizations;
- s. 447.12, F.S., regarding the fees for registration;
- s. 447.16, 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.

Student Loan Defaults and Disciplinary Action

Background

Many states allow a licensing agency to discipline a licensee when they default on student loans or scholarship obligations.¹⁴⁷ In Florida, the only agency that has express authority to discipline a licensee for such action is the Department of Health (DOH), for which it has had 528 cases against health practitioners

¹⁴³ S. 447.02(1), F.S.

¹⁴⁴ S. 447.02(2), F.S.

¹⁴⁵ National Labor Relations Board, *What We Do*, <https://www.nlr.gov/about-nlr/what-we-do> (March 16, 2019); United States Department of Labor, Office of Labor Management Standards, *Reports Required Under the LMRDA and the CSRA*, <https://www.dol.gov/olms/regs/compliance/rrlo/reqreq.htm> (March 16, 2019); DBPR, *supra* note 27.

¹⁴⁶ DBPR, *supra* note 27.

¹⁴⁷ Andrew Wagner, *License Suspension for Student Loan Defaulters*, National Conference of State Legislatures Legisbrief, Oct. 1, 2018, <http://www.ncsl.org/research/labor-and-employment/license-suspension-for-student-loan-defaulters.aspx> (last visited Mar. 19, 2019).

so far in fiscal year 2018-2019.¹⁴⁸ Neither DBPR nor a board thereunder has ever disciplined a licensee for defaulting on a student loan, but there is no direct statute on topic.¹⁴⁹

There have been bills filed at the federal level that would prevent all states from taking such disciplinary measures, but so far they have been unsuccessful.¹⁵⁰

Effect of the Bill

The bill specifically prohibits DBPR or any board under DBPR from disciplining a licensee solely for defaulting or becoming delinquent on a federal or state guaranteed student loan or a scholarship obligation.

The bill will be cited as the “Occupational Freedom and Opportunity Act.”

The bill has an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1	Provides “Occupational Freedom and Opportunity Act” as the act title;
Section 2	Amends s. 20.165, F.S., conforming provisions;
Section 3	Amends s. 326.004, F.S., deleting requirement for yacht broker branch office licenses;
Section 4	Amends s. 447.02, F.S., conforming provisions;
Section 5	Repeals s. 447.04, F.S., relating to licensure requirements for business agents;
Section 6	Repeals s. 447.041, F.S., relating to hearings for labor organizations or business agents denied licensure;
Section 7	Repeals s. 447.045, F.S., relating to confidential application information;
Section 8	Repeals s. 447.06, F.S., relating to required registration of labor organizations;
Section 9	Amends s. 447.09, F.S., deleting certain actions relating to right of franchise of a member of a labor organization;
Section 10	Repeals s. 447.12, F.S., relating to fees;
Section 11	Repeals s. 447.16, F.S., relating to applicability;
Section 12	Amends s. 447.305, F.S., deleting provision requiring notification to DBPR;
Section 13	Creates s. 455.2278, F.S., to prohibit DBPR from certain disciplinary actions;
Section 14	Amends s. 455.213, F.S., requiring DBPR and boards to enter into reciprocity agreements, when available, and to post certain information on their website;
Section 15	Amends s. 468.381, F.S., revising legislative findings and intent related to auctioneers;
Section 16	Amends s. 468.382, F.S., revising definitions;
Section 17	Repeals s. 468.384, F.S., relating to Florida Board of Auctioneers;
Section 18	Repeals s. 468.385, F.S., relating to training requirements;
Section 19	Repeals s. 468.3851, F.S., relating to licensure renewal;
Section 20	Repeals s. 468.3852, F.S., relating to licensure reactivation;
Section 21	Repeals s. 468.3855, F.S., relating to training requirements;
Section 22	Repeals s. 468.386, F.S., relating to fees and local licensing requirements;
Section 23	Repeals s. 468.387, F.S., relating to licensure by endorsement;
Section 24	Amends s. 468.388, F.S., relating to licensure requirements;
Section 25	Amends s. 468.389, F.S., providing grounds for civil remedies;
Section 26	Amends s. 468.391, F.S., conforming provisions;
Section 27	Repeals s. 468.392, F.S., relating to the Auctioneer Recovery Fund;
Section 28	Repeals s. 468.393, F.S., relating to the Auctioneer Recovery Fund;
Section 29	Repeals s. 468.394, F.S., relating to the Auctioneer Recovery Fund;
Section 30	Repeals s. 468.395, F.S., relating to the Auctioneer Recovery Fund;

¹⁴⁸ Email from Gary Landry, Office of Legislative Planning, Florida Department of Health, RE: Student Loan case information (Mar. 7, 2019).

¹⁴⁹ Email from Susan Datres, Office of Legislative Affairs, Florida Department of Business and Professional Regulation, RE: Student Loans (Mar. 19, 2019).

¹⁵⁰ Wagner, *supra* note 147.

Section 31	Repeals s. 468.396, F.S., relating to the Auctioneer Recovery Fund;
Section 32	Repeals s. 468.397, F.S., relating to the Auctioneer Recovery Fund;
Section 33	Repeals s. 468.398, F.S., relating to the Auctioneer Recovery Fund;
Section 34	Repeals s. 468.399, F.S., relating to the Auctioneer Recovery Fund;
Section 35	Amends s. 468.401, F.S., removing definitions;
Section 36	Repeals s. 468.402, F.S., relating to duties and authority of DBPR for talent agencies;
Section 37	Repeals s. 468.403, F.S., relating to duties and authority of DBPR for talent agencies;
Section 38	Repeals s. 468.404, F.S., relating to duties and authority of DBPR for talent agencies;
Section 39	Repeals s. 468.405, F.S., relating to duties and authority of DBPR for talent agencies;
Section 40	Amends s. 468.406, F.S., revising requirements for a schedule of fees and charges;
Section 41	Repeals s. 468.407, F.S., relating to license posting requirements;
Section 42	Amends s. 468.408, F.S., conforming provisions;
Section 43	Amends s. 468.409, F.S., removing a records inspection requirement;
Section 44	Amends s. 468.410, F.S., deleting a contract requirement;
Section 45	Amends s. 468.412, F.S., deleting recordkeeping and posting requirements;
Section 46	Amends s. 468.413, F.S., revising criminal penalties for talent agencies;
Section 47	Repeals s. 468.414, F.S., relating to the Professional Regulation Trust Fund;
Section 48	Amends s. 468.415, F.S., revising penalties;
Section 49	Amends s. 468.524, F.S., revising time limitations for reapplication as a licensed employee leasing company;
Section 50	Amends s. 468.603, F.S., revising a definition;
Section 51	Amends s. 468.609, F.S., revising education and experience requirements;
Section 52	Amends s. 468.613, F.S., revising requirements for a license by endorsement;
Section 53	Amends s. 468.8314, F.S., revising requirements for a license by endorsement;
Section 54	Amends s. 468.8414, F.S., revising requirements for a license by endorsement;
Section 55	Amends s. 469.006, F.S., revising requirements for asbestos abatement businesses;
Section 56	Amends s. 469.009, F.S., conforming provisions;
Section 57	Amends s. 471.005, F.S., removing a definition for 'certificate of authorization;' conforming a provision;
Section 58	Amends s. 471.011, F.S., conforming provisions;
Section 59	Amends s. 471.015, F.S., revising requirements for a license by endorsement;
Section 60	Amends s. 471.023, F.S., revising requirements for professional engineering Businesses;
Section 61	Amends s. 473.308, F.S., revising requirements for a license by endorsement;
Section 62	Amends s. 474.202, F.S., revising the definition for 'limited-service veterinary medical practice';
Section 63	Amends s. 474.207, F.S., adding an approved licensing examination;
Section 64	Amends s. 474.217, F.S., revising requirements for a license by endorsement;
Section 65	Amends s. 476.114, F.S., revising barber training requirements;
Section 66	Amends s. 476.144, F.S., revising restricted barbers training requirements;
Section 67	Amends s. 477.013, F.S., revising and providing definitions;
Section 68	Repeals s. 477.0132, F.S., relating to the registration of hair braiding, hair wrapping, and body wrapping;
Section 69	Amends s. 477.0135, F.S., exempting hair braiders, hair wrappers, body wrappers, nail polishers, and makeup applicators from licensure;
Section 70	Amends s. 477.019, F.S., conforming provisions;
Section 71	Amends s. 477.0201, F.S., providing requirements for specialty licenses;
Section 72	Amends s. 477.026, F.S., conforming provisions;
Section 73	Amends s. 477.0263, F.S., adding exceptions to services that must be performed in a licensed salon;
Section 74	Amends s. 477.0265, F.S., conforming provisions;
Section 75	Amends s. 477.029, F.S., conforming provisions;
Section 76	Amends s. 481.201, F.S., removing legislative findings related to interior design;

Section 77	Amends s. 481.203, F.S., revising definitions for ‘certificate of authorization’ and ‘business organization;’
Section 78	Amends s. 481.205, F.S., revising provisions for the Board of Architecture;
Section 79	Amends s. 481.207, F.S., conforming provisions;
Section 80	Amends s. 481.209, F.S., conforming provisions;
Section 81	Amends s. 481.213, F.S., conforming provisions;
Section 82	Amends s. 481.2131, F.S., revising regulations for practicing interior design;
Section 83	Amends s. 481.215, F.S., conforming provisions;
Section 84	Amends s. 481.217, F.S., conforming provisions;
Section 85	Amends s. 481.219, F.S., removing regulations for interior design businesses;
Section 86	Amends s. 481.221, F.S., conforming provisions;
Section 87	Amends s. 481.222, F.S., conforming provisions;
Section 88	Amends s. 481.223, F.S., conforming provisions;
Section 89	Amends s. 481.2251, F.S., conforming provisions;
Section 90	Amends s. 481.229, F.S., conforming provisions;
Section 91	Amends s. 481.231, F.S., conforming provisions;
Section 92	Amends s. 481.303, F.S., deleting the definition of ‘certificate of authorization;’
Section 93	Amends s. 481.310, F.S., revising training requirements;
Section 94	Amends s. 481.311, F.S., conforming provisions;
Section 95	Amends s. 481.317, F.S., conforming provisions;
Section 96	Amends s. 481.319, F.S., deleting the requirement for a certificate of authorization and authorizing practice through a corporation or partnership;
Section 97	Amends s. 481.321, F.S., revising requirements for the display of a certificate number;
Section 98	Amends s. 481.329, F.S., conforming a cross-reference;
Section 99	Amends s. 489.103, F.S., revising contract limits for unlicensed contractors in certain situations;
Section 100	Amends s. 489.111, F.S., revising timing for taking a license exam; conforming a provision;
Section 101	Amends s. 489.113, F.S., allowing certain contracting applicants to be exempt from taking a licensing examination;
Section 102	Amends s. 489.115, F.S., revising requirements for a license by endorsement;
Section 103	Amends s. 489.511, F.S., revising requirements for a license by endorsement;
Section 104	Amends s. 489.517, F.S., reducing continuing education requirements;
Section 105	Amends s. 489.518, F.S., revising training requirements for burglar alarm system agents;
Section 106	Amends s. 492.104, F.S., conforming provisions;
Section 107	Amends s. 492.108, F.S., revising requirements for a license by endorsement;
Section 108	Amends s. 492.111, F.S., deleting the requirements for a certificate of authorization for a professional geologist;
Section 109	Amends s. 492.113, F.S., conforming provisions;
Section 110	Amends s. 492.115, F.S., conforming provisions;
Section 111	Amends s. 548.003, F.S., deleting the requirement for the Florida State Boxing Commission to adopt rules relating to a timekeeper;
Section 112	Amends s. 548.017, F.S., deleting the licensure requirement for timekeepers and announcers;
Section 113	Amends s. 553.5141, F.S., conforming provisions;
Section 114	Amends s. 553.74, F.S., revising the membership of the Florida Building Commission;
Section 115	Amends s. 553.79, F.S., conforming provisions;
Section 116	Amends s. 558.002, F.S., conforming provisions;
Section 117	Amends s. 559.25, F.S., conforming provisions;
Section 118	Amends s. 287.055, F.S., conforming provisions;
Section 119	Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have a significant negative fiscal impact on state revenues. Over the next three fiscal years, the estimated reduction totals \$3,910,121 as follows:¹⁵¹

Professions: The bill should result in a reduction of license fees, license renewal fees and unlicensed activity fees of approximately \$1,071,407 in Fiscal Year 2019-20, \$1,481,607 in Fiscal Year 2020-21, and \$1,335,957 in Fiscal Year 2021-22.

The following fees are eliminated:

- Board of Auctioneers for initial licensure and renewals of auctioneers, auctioneer apprentices, and auction businesses.
- Office of Talent Agencies for initial licensure and renewals of talent agencies.
- Board of Architecture and Interior Design for the initial registration and renewal of interior designers and business licenses.
- Board of Cosmetology for initial registration and renewal of hair braiders, hair wrappers and body wrappers.
- Board of Landscape Architecture for the issuance and renewal of certificates of authorization for businesses.
- Board of Professional Geologists for the issuance and renewal of certificates of authorization for businesses.
- Issuance and renewal of Asbestos Business certificates of authorization.
- Licensure of Business Agents and Labor Organizations.

Condominiums: (Yacht and Ship Brokers) Revenue reduction of approximately \$5,900 in Fiscal Year 2019-20, \$5,000 in Fiscal Year 2020-21, and \$5,900 in Fiscal Year 2021-22.

- The fees for the licensure of Yacht and Ship Broker branch offices are eliminated.

Boxing Commission: Licensees should see revenue reduction of approximately \$1,450 in Fiscal Year 2019-20, \$1,450 in Fiscal Year 2020-21, and \$1,450 in Fiscal Year 2021-22.

- The fees received by the department from the Boxing Commission for the licensure of timekeepers and announcers are eliminated.

For more detail of the reduction of revenues, see *Fiscal Comments*.

2. Expenditures:

The bill will result in a reduction of expenditures related to the reduced workload provided through deregulation of entities currently regulated by the department. The estimated reduction includes \$135,900 in FY 2019-20, \$141,100 in FY 2020-21 and \$147,800 in FY 2021-22.

For more detail of the reduction of expenditures, see *Fiscal Comments*.

The bill will require modifications to Versa and the Interactive Voice Response system to retire transactions and license types. All modifications can be absorbed within existing department resources.¹⁵²

¹⁵¹ Florida Department of Business and Professional Regulation, Agency Analysis of 2019 House Bill 27 (Mar. 15, 2019).

¹⁵² *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate positive fiscal impact for the private sector. The bill provides for the portability of Florida licensure by requiring reciprocity with states with similar requirements. The impact will vary, depending on how many licensees are provided licensure through reciprocity.

In addition, current licensees should see the following fee reductions:¹⁵³

- Condominiums: (Yacht and Ship Brokers) Expenditure reduction of approximately \$5,900 in Fiscal Year 2019-20, \$5,000 in Fiscal Year 2020-21, and \$5,900 in Fiscal Year 2021-22.
- Professions: Licensees should see an expenditure reduction of approximately \$1,071,407 in Fiscal Year 2019-20, \$1,481,607 in Fiscal Year 2020-21, and \$1,335,957 in Fiscal Year 2021-22.
- Boxing Commission: Licensees should see an expenditure reduction of approximately \$1,450 in Fiscal Year 2019-20, \$1,450 in Fiscal Year 2020-21, and \$1,450 in Fiscal Year 2021-22.

Interior designers, labor organizations, pugilistic announcers, pugilistic timekeepers, hair braiders, hair wrappers, body wrappers, nail painters, and makeup artists will no longer need to pay costs associated with professional licensure.

Nail specialists, facial specialists, full specialists, barbers, and restricted barber applicants will require less training to obtain licensure, which may lead to a reduced training cost.

Asbestos abatement consultants and contractors, engineers, landscape architects, geologists, and architects will no longer need to pay costs associated with retaining certificates of authorization for business organizations.

Barbers, building code professionals, construction and electrical contractors, cosmetologists, engineers, geologists, home inspectors, mold services professionals, veterinarians, landscape architects, and certified public accountants will have an additional pathway for a license by endorsement or examination to be able to practice in Florida.

Cosmetologists and electrical and alarm system contractors will be required to complete less continuing education for license renewal, which will lead to a reduction in costs to maintain a license.

There may be an increase in the number of people in the workforce practicing their chosen professions.

¹⁵³ *Id.*

D. FISCAL COMMENTS:

Detail of estimated revenue reduction: ¹⁵⁴

DESCRIPTION	FY 19-20	FY 20-21	FY 21-22
Initial License:			
Architecture Business	(25,500)	(443,500)	(25,500)
Asbestos Business	(62,220)	(2,805)	(67,830)
Auction Business	(129,890)	(11,160)	(152,210)
Auctioneer Apprentice	(10,695)	(1,860)	(14,415)
Auctioneers	(282,720)	(13,175)	(309,070)
Geology (Business)	(7,700)	(134,050)	(7,700)
Body Wrappers	(109,913)	(144,100)	(178,275)
Hair Braider	(84,000)	(116,150)	(148,300)
Hair Wrappers	(21,063)	(29,075)	(37,075)
Interior Design (Individual)	(11,875)	(408,750)	(11,875)
Interior Design Business - Odd	(7,375)	(146,875)	(7,375)
Landscape Architecture - Business	(136,658)	(7,878)	(152,413)
Talent Agency	(180,630)	(21,060)	(222,750)
Business Agents	(525)	(525)	(525)
Labor Organizations-Organizations	(644)	(644)	(644)
Boxing Announcer	(750)	(750)	(750)
Boxing Timekeeper	(700)	(700)	(700)
Yacht and Ship Branch Office License	(5,900)	(5,000)	(5,900)
FEES	(1,078,757)	(1,488,057)	(1,343,307)

**Detail
of**

estimated expenditure reductions of all professions: ¹⁵⁵

The following chart includes estimated reductions in expenditures related to the following boards/professions including the Board of Architecture and Interior Design, Board of Auctioneers, Board of Cosmetology, and Talent Agencies.

	FY 2019-2020	FY 2020-2021	FY 2021-2022
Board Administrative Office	30,800	34,100	33,900
Investigative Contract	74,800	74,800	74,800
Attorney General's Office (contract)	15,900	15,800	16,900
Revenue Bank Charges	9,200	10,100	12,600
Testing and Continuing Education	5,200	6,300	9,600
Total Cost Savings	135,900	141,100	147,800

The elimination of license fees will result in operating accounts closing with negative balances in the Professional Regulation Trust Fund. The department provided the following statement:

¹⁵⁴ Email from Lynn Smith, Bureau Chief, Office of Planning and Budget, Department of Business and Professional Regulation, RE: Revenue Spreadsheet (Mar. 15, 2019).

¹⁵⁵ DBPR, *supra* note 151.

Negative Board Account Balances and Auctioneer Recovery Fund Claims

As of December 31, 2018, the operating accounts for the Florida Board of Auctioneers, the Board of Professional Geologists, Talent Agents and the Florida Boxing Commission reflected negative balances.

The operating accounts of the Florida Board of Auctioneers and the Talent Agents will close with negative balances in FY 2018-19. The operating account deficits for the Board of Professional Geologists and the Florida Boxing Commission will increase by the end of FY 2018-19. Each of the funds may have additional costs that may not be posted until after July 1, 2019, the effective date of the bill. The Auctioneer Recovery Fund's operating account may have a positive balance at the end of June 2019. If there will be any pending claims against the Auctioneer Recovery Fund at the end of June 2019, budget authority for processing these claims from the account may be necessary if the claim is processed and paid after June 30, 2019, notwithstanding the bill's dissolution of the Board of Auctioneers and elimination of licensure for this profession.

Several accounts with negative balances have borrowed from other board accounts during prior fiscal years in which the negative balances in the accounts needed to be addressed. Pursuant to s. 455.219, F.S., and Rule 61-5.004, F.A.C., all loans will be repaid with interest. For the negative balance accounts associated with professions or boards which would not continue pursuant to amendments in the bill, clarification of budget authority for repayment of the borrowed amounts from other boards may be needed.¹⁵⁶

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:

Application, forms, rules, and rule chapters will need to be updated related to the following licensure programs:

- Barber's Board,
- Boxing Commission,
- Board of Cosmetology,
- Board of Professional Engineers,
- Board of Professional Geologists,
- Building Code Administrators and Inspectors Board,
- Board of Veterinary Medicine,
- Board of Landscape Architecture,
- Construction Industry Licensing Board,
- Electrical Contractor's Licensing Board,
- Asbestos Consultants,
- Board of Accountancy,
- Florida Building Commission,
- Board of Architecture and Interior Design,

¹⁵⁶ *Id.*

- Board of Auctioneers, and
- Talent Agencies.

DBPR and the boards have sufficient rulemaking authority to make required changes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2019, the Business & Professions Subcommittee adopted 6 amendments and reported the bill favorably as a committee substitute. The amendments:

- reduce the amount of experience and education required for certain pathways to become a building code inspector or plans examiner;
- extend the time for a building code provisional license to be valid, allowing holders of such licenses more time to complete their examinations;
- clarify that the CILB may evaluate an applicant's prior licensure disciplinary history when making a decision to grant a license by endorsement;
- clarify the membership qualifications for the architect spot on the Commission;
- require that an application for a license by endorsement must be made either when the applicant's license in another state or territory is active or within 2 years of when such license was last active;
- rename a "one and two family dwelling inspector" to a "residential inspector," and allows such inspectors to also perform inspections on three family residences; and
- prohibit DBPR or a board from disciplining licensees solely for defaulting on student loans.

On April 4, 2019, the Commerce Committee adopted 5 amendments and reported the bill favorably as a committee substitute. The amendments:

- provide a title for the bill: "The Occupational Freedom and Opportunity Act."
- require bonding companies to refuse to issue bonds to a talent agency if any of the owners or operators of the talent agency have been convicted of sexual offender or sexual predator crimes, and requires that a criminal history check be performed prior to issuing the bond.
- allow nail polish removal, nail filing, nail buffing, and nail cleansing, in addition to nail painting, hair shampooing, hair cutting, and hair arranging, to be performed outside of a salon by a properly licensed freelance cosmetology professional.
- clarify that a landscape architect license applicant must hold both a bachelor's degree in landscape architecture and a master's degree in landscape architecture to be exempt from the 1 year of practical experience requirement.
- include a mechanical engineer in the list of professionals available to be considered to serve on the Florida Building Commission as the air-conditioning or mechanical contractor member, and encourage the Florida Engineering Society to recommend candidates to serve on the Florida Building Commission.

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