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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2019	.	
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The Committee on Commerce and Tourism (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (3) through (12) of section
455.213, Florida Statutes, are redesignated as subsections (4)
through (13), respectively, subsection (2) of that section is
amended, and a new subsection (3) is added to that section, to
read:

455.213 General licensing provisions.-



11 (2) Before the issuance of any license, the department may
12 charge an initial license fee as determined by rule of the
13 applicable board or, if no such board exists, by rule of the
14 department. Upon receipt of the appropriate license fee, except
15 as provided in subsection (4) ~~(3)~~, the department shall issue a
16 license to any person certified by the appropriate board, or its
17 designee, or the department when there is no board, as having
18 met the applicable requirements imposed by law or rule. However,
19 an applicant who is not otherwise qualified for licensure is not
20 entitled to licensure solely based on a passing score on a
21 required examination. Upon a determination by the department
22 that it erroneously issued a license, or upon the revocation of
23 a license by the applicable board, or by the department when
24 there is no board, the licensee must surrender his or her
25 license to the department.

26 (3) (a) Notwithstanding any other provision of law, the
27 applicable board shall use the process in this subsection for
28 review of an applicant's criminal record to determine his or her
29 eligibility for licensure as:

- 30 1. A barber under chapter 476;
31 2. A cosmetologist or cosmetology specialist under chapter
32 477; or
33 3. Any of the following construction professions under
34 chapter 489:
35 a. Air-conditioning contractor;
36 b. Electrical contractor;
37 c. Mechanical contractor;
38 d. Plumbing contractor;
39 e. Pollutant storage systems contractor;



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- 40 f. Roofing contractor;
- 41 g. Sheet metal contractor;
- 42 h. Solar contractor;
- 43 i. Swimming pool and spa contractor;
- 44 j. Underground utility and excavation contractor; and
- 45 k. Other specialty contractors.

46 (b)1. A conviction, or any other adjudication, for a crime
47 more than 5 years before the date the application is received by
48 the applicable board may not be grounds for denial of a license
49 specified in paragraph (a). For purposes of this paragraph, the
50 term "conviction" means a determination of guilt that is the
51 result of a plea or trial, regardless of whether adjudication is
52 withheld. This paragraph does not limit the applicable board
53 from considering an applicant's criminal history that includes a
54 crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time only
55 if such criminal history has been found to relate to the
56 practice of the applicable profession.

57 2. The applicable board may consider the criminal history
58 of an applicant for licensure under subparagraph (a)3. if such
59 criminal history has been found to relate to good moral
60 character.

61 (c)1. A person may apply for a license before his or her
62 lawful release from confinement or supervision. The department
63 may not charge an applicant an additional fee for being confined
64 or under supervision. The applicable board may not deny an
65 application for a license solely on the basis of the applicant's
66 current confinement or supervision.

67 2. After a license application is approved, the applicable
68 board may stay the issuance of a license until the applicant is



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69 lawfully released from confinement or supervision and the
70 applicant notifies the applicable board of such release. The
71 applicable board must verify the applicant's release with the
72 Department of Corrections before it issues a license.

73 3. If an applicant is unable to appear in person due to his
74 or her confinement or supervision, the applicable board must
75 permit the applicant to appear by teleconference or video
76 conference, as appropriate, at any meeting of the applicable
77 board or other hearing by the agency concerning his or her
78 application.

79 4. If an applicant is confined or under supervision, the
80 Department of Corrections and the applicable board shall
81 cooperate and coordinate to facilitate the appearance of the
82 applicant at a board meeting or agency hearing in person, by
83 teleconference, or by video conference, as appropriate.

84 (d) Each applicable board shall compile a list of crimes
85 that, if committed and regardless of adjudication, do not relate
86 to the practice of the profession or the ability to practice the
87 profession and do not constitute grounds for denial of a
88 license. This list shall be made available on the department's
89 website and be updated annually. Beginning October 1, 2019, each
90 applicable board shall compile a list of crimes that although
91 reported by an applicant for licensure, were not used as a basis
92 for denial. The list must identify the crime reported and the
93 date of conviction, finding of guilt, plea, or adjudication
94 entered or the date of sentencing for each such license
95 application.

96 (e) Each applicable board shall compile a list of crimes
97 that have been used as a basis for denial of a license in the



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98 past 2 years, which shall be made available on the department's
99 website. Starting October 1, 2019, and updated quarterly
100 thereafter, the applicable board shall compile a list indicating
101 each crime used as a basis for denial. For each crime listed,
102 the applicable board must identify the date of conviction,
103 finding of guilt, plea, or adjudication entered, or date of
104 sentencing. Such denials shall be available to the public upon
105 request.

106 Section 2. Section 489.107, Florida Statutes, is amended to
107 read:

108 489.107 Construction Industry Licensing Board.—

109 (1) To carry out the provisions of this part, there is
110 created within the department the Construction Industry
111 Licensing Board. Members shall be appointed by the Governor,
112 subject to confirmation by the Senate. Members shall be
113 appointed for 4-year terms. A vacancy on the board shall be
114 filled for the unexpired portion of the term in the same manner
115 as the original appointment. No member shall serve more than two
116 consecutive 4-year terms or more than 11 years on the board.

117 (2) The board shall consist of 10 ~~18~~ members, of whom:

118 (a) Two ~~Four~~ are primarily engaged in business as general
119 contractors;

120 (b) Three are primarily engaged in business as building
121 contractors or residential contractors, however, at least one
122 building contractor and one residential contractor shall be
123 appointed;

124 (c) One is primarily engaged in business as a roofing
125 contractor;

126 ~~(d) One is primarily engaged in business as a sheet metal~~



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127 ~~contractor;~~
128 ~~(e) One is primarily engaged in business as an air-~~
129 ~~conditioning contractor;~~
130 (d)~~(f)~~ One is primarily engaged in business as a mechanical
131 contractor;
132 (e)~~(g)~~ One is primarily engaged in business as a pool
133 contractor;
134 (f)~~(h)~~ One is primarily engaged in business as a plumbing
135 contractor; and
136 (g)~~(i)~~ One is primarily engaged in business as an
137 underground utility and excavation contractor;
138 ~~(j) Two are consumer members who are not, and have never~~
139 ~~been, members or practitioners of a profession regulated by the~~
140 ~~board or members of any closely related profession; and~~
141 ~~(k) Two are building officials of a municipality or county.~~
142 (3) To be eligible to serve, each contractor member must
143 have been certified by the board to operate as a contractor in
144 the category with respect to which the member is appointed, be
145 actively engaged in the construction business, and have been so
146 engaged for a period of not less than 5 consecutive years before
147 the date of appointment. Each appointee must be a citizen and
148 resident of the state.
149 (4) The board shall be divided into two divisions, Division
150 I and Division II.
151 (a) Division I is comprised of the general contractor,
152 building contractor, and residential contractor members of the
153 board; ~~one of the members appointed pursuant to paragraph~~
154 ~~(2)(j); and one of the members appointed pursuant to paragraph~~
155 ~~(2)(k).~~ Division I has jurisdiction over the regulation of



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156 general contractors, building contractors, and residential
157 contractors.

158 (b) Division II is comprised of the roofing contractor,
159 ~~sheet metal contractor, air conditioning contractor,~~ mechanical
160 contractor, pool contractor, plumbing contractor, and
161 underground utility and excavation contractor members of the
162 board; ~~one of the members appointed pursuant to paragraph~~
163 ~~(2) (j); and one of the members appointed pursuant to paragraph~~
164 ~~(2) (k).~~ Division II has jurisdiction over the regulation of
165 contractors defined in s. 489.105(3) (d)-(p).

166 (c) Jurisdiction for the regulation of specialty
167 contractors defined in s. 489.105(3) (q) shall lie with the
168 division having jurisdiction over the scope of work of the
169 specialty contractor as defined by board rule.

170 (5) Three ~~Five~~ members of Division I constitute a quorum,
171 and three ~~five~~ members of Division II constitute a quorum. The
172 combined divisions shall meet together at such times as the
173 board deems necessary, but neither division, nor any committee
174 thereof, shall take action on any matter under the jurisdiction
175 of the other division. However, if either division is unable to
176 obtain a quorum for the purpose of conducting disciplinary
177 proceedings, it may request members of the other division, who
178 are otherwise qualified to serve on the division unable to
179 obtain a quorum, to join in its deliberations. Such additional
180 members shall vote and count toward a quorum only during those
181 disciplinary proceedings.

182 (6) The Construction Industry Licensing Board and the
183 Electrical Contractors' Licensing Board shall each appoint a
184 committee to meet jointly at least twice a year.



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185 Section 3. Subsections (7) through (10) are added to
186 section 489.553, Florida Statutes, to read:

187 489.553 Administration of part; registration
188 qualifications; examination.-

189 (7) Notwithstanding any other provision of law, a
190 conviction, or any other adjudication, for a crime more than 5
191 years before the date the application is received by the
192 department may not be grounds for denial of registration. For
193 purposes of this subsection, the term "conviction" means a
194 determination of guilt that is the result of a plea or trial,
195 regardless of whether adjudication is withheld. This subsection
196 does not limit a board from considering an applicant's criminal
197 history that includes any crime listed in s. 775.21(4)(a)1. or
198 s. 776.08 at any time only if such criminal history has been
199 found to relate to the practice of the applicable profession, or
200 any crime if it has been found to relate to good moral
201 character.

202 (8) (a) A person may apply to be registered before his or
203 her lawful release from confinement or supervision. The
204 department may not charge an applicant an additional fee for
205 being confined or under supervision. The department may not deny
206 an application for registration solely on the basis of the
207 applicant's current confinement or supervision.

208 (b) After a registration application is approved, the
209 department may stay the issuance of registration until the
210 applicant is lawfully released from confinement or supervision
211 and the applicant notifies the board of such release. The
212 department must verify the applicant's release with the
213 Department of Corrections before it registers such applicant.



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214 (c) If an applicant is unable to appear in person due to
215 his or her confinement or supervision, the department must
216 permit the applicant to appear by teleconference or video
217 conference, as appropriate, at any meeting or hearing by the
218 department concerning his or her application.

219 (d) If an applicant is confined or under supervision, the
220 Department of Corrections and the department shall cooperate and
221 coordinate to facilitate the appearance of the applicant at a
222 meeting or hearing in person, by teleconference, or by video
223 conference, as appropriate.

224 (9) The department shall compile a list of crimes that, if
225 committed and regardless of adjudication, do not relate to the
226 practice of the profession or the ability to practice the
227 profession and do not constitute grounds for denial of
228 registration. This list shall be made available on the
229 department's website and be updated annually. Beginning October
230 1, 2019, and updated quarterly thereafter, the department shall
231 add to this list such crimes that although reported by an
232 applicant for registration, were not used as a basis for denial
233 in the past 2 years. The list must identify the crime reported
234 and the date of conviction, plea, adjudication, or sentencing
235 for each such registration application.

236 (10) The department shall compile a list of crimes that
237 have been used as a basis for denial of registration in the past
238 2 years, which shall be made available on the department's
239 website. Beginning October 1, 2019, and updated quarterly
240 thereafter, the department shall add to this list each crime
241 used as a basis for denial. For each crime listed, the
242 department must identify the date of conviction, plea,



243 adjudication, or sentencing. Such denials shall be available to
244 the public upon request.

245 Section 4. This act shall take effect October 1, 2019.

246

247 ===== T I T L E A M E N D M E N T =====

248 And the title is amended as follows:

249 Delete everything before the enacting clause
250 and insert:

251 A bill to be entitled
252 An act relating to professional regulation; amending
253 s. 455.213, F.S.; requiring certain boards and
254 entities within the Divisions of Certified Public
255 Accounting, Professions, or Real Estate of the
256 Department of Business and Professional Regulation to
257 use a specified process for the review of an
258 applicant's criminal record to determine the
259 applicant's eligibility for certain licenses;
260 prohibiting the conviction of a crime before a
261 specified date from being grounds for the denial of
262 certain licenses; defining the term "conviction";
263 authorizing a person to apply for a license before his
264 or her lawful release from confinement or supervision;
265 prohibiting the department from charging an applicant
266 who is confined or under supervision an additional
267 fee; prohibiting a board from basing a denial of a
268 license application solely on the applicant's current
269 confinement or supervision; authorizing a board to
270 stay the issuance of an approved license under certain
271 circumstances; requiring a board to verify an



272 applicant's release with the Department of
273 Corrections; requiring the Department of Business and
274 Professional Regulation to allow certain applicants to
275 appear by teleconference or video conference at
276 certain meetings; requiring a board to provide certain
277 lists on its website specifying how certain crimes do
278 or do not affect an applicant's eligibility for
279 licensure; providing that certain information be
280 identified for the crimes on a certain list; requiring
281 such lists to be available to the public upon request;
282 amending s. 489.107, F.S.; revising the membership of
283 the Construction Industry Licensing Board; conforming
284 provisions to changes made by the act; amending s.
285 489.553, F.S.; prohibiting the conviction of a crime
286 before a specified date from being grounds for the
287 denial of registration under certain circumstances;
288 defining the term "conviction"; authorizing a person
289 to apply for registration before his or her lawful
290 release from confinement or supervision; prohibiting
291 the department from charging an applicant who is
292 confined or under supervision an additional fee;
293 prohibiting the department from basing the denial of
294 registration solely on the applicant's current
295 confinement or supervision; authorizing the board to
296 stay the issuance of an approved registration under
297 certain circumstances; requiring the department to
298 verify an applicant's release with the Department of
299 Corrections; requiring the Department of Business and
300 Professional Regulation to allow certain applicants to



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301 appear by teleconference or video conference at
302 certain meetings; requiring the department to provide
303 certain lists on its website specifying how certain
304 crimes do or do not affect an applicant's eligibility
305 for registration; providing that certain information
306 be identified for each crime on certain lists;
307 requiring such lists to be available to the public
308 upon request; providing an effective date.