

By the Committees on Commerce and Tourism; and Innovation, Industry, and Technology; and Senator Brandes

577-04020-19

2019334c2

1 A bill to be entitled
2 An act relating to professional regulation; amending
3 s. 455.213, F.S.; requiring certain boards and
4 entities within the Divisions of Certified Public
5 Accounting, Professions, or Real Estate of the
6 Department of Business and Professional Regulation to
7 use a specified process for the review of an
8 applicant's criminal record to determine the
9 applicant's eligibility for certain licenses;
10 prohibiting the conviction of a crime before a
11 specified date from being grounds for the denial of
12 certain licenses; defining the term "conviction";
13 authorizing a person to apply for a license before his
14 or her lawful release from confinement or supervision;
15 prohibiting the department from charging an applicant
16 who is confined or under supervision an additional
17 fee; prohibiting a board from basing a denial of a
18 license application solely on the applicant's current
19 confinement or supervision; authorizing a board to
20 stay the issuance of an approved license under certain
21 circumstances; requiring a board to verify an
22 applicant's release with the Department of
23 Corrections; requiring the Department of Business and
24 Professional Regulation to allow certain applicants to
25 appear by teleconference or video conference at
26 certain meetings; requiring a board to provide certain
27 lists on its website specifying how certain crimes do
28 or do not affect an applicant's eligibility for
29 licensure; providing that certain information be

577-04020-19

2019334c2

30 identified for the crimes on a certain list; requiring
31 such lists to be available to the public upon request;
32 amending s. 489.107, F.S.; revising the membership of
33 the Construction Industry Licensing Board; conforming
34 provisions to changes made by the act; amending s.
35 489.553, F.S.; prohibiting the conviction of a crime
36 before a specified date from being grounds for the
37 denial of registration under certain circumstances;
38 defining the term "conviction"; authorizing a person
39 to apply for registration before his or her lawful
40 release from confinement or supervision; prohibiting
41 the department from charging an applicant who is
42 confined or under supervision an additional fee;
43 prohibiting the department from basing the denial of
44 registration solely on the applicant's current
45 confinement or supervision; authorizing the board to
46 stay the issuance of an approved registration under
47 certain circumstances; requiring the department to
48 verify an applicant's release with the Department of
49 Corrections; requiring the Department of Business and
50 Professional Regulation to allow certain applicants to
51 appear by teleconference or video conference at
52 certain meetings; requiring the department to provide
53 certain lists on its website specifying how certain
54 crimes do or do not affect an applicant's eligibility
55 for registration; providing that certain information
56 be identified for each crime on certain lists;
57 requiring such lists to be available to the public
58 upon request; providing an effective date.

577-04020-19

2019334c2

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

Be It Enacted by the Legislature of the State of Florida:

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.—

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

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

1. A barber under chapter 476;

577-04020-19

2019334c2

88 2. A cosmetologist or cosmetology specialist under chapter
89 477; or

90 3. Any of the following construction professions under
91 chapter 489:

92 a. Air-conditioning contractor;

93 b. Electrical contractor;

94 c. Mechanical contractor;

95 d. Plumbing contractor;

96 e. Pollutant storage systems contractor;

97 f. Roofing contractor;

98 g. Sheet metal contractor;

99 h. Solar contractor;

100 i. Swimming pool and spa contractor;

101 j. Underground utility and excavation contractor; and

102 k. Other specialty contractors.

103 (b)1. A conviction, or any other adjudication, for a crime
104 more than 5 years before the date the application is received by
105 the applicable board may not be grounds for denial of a license
106 specified in paragraph (a). For purposes of this paragraph, the
107 term "conviction" means a determination of guilt that is the
108 result of a plea or trial, regardless of whether adjudication is
109 withheld. This paragraph does not limit the applicable board
110 from considering an applicant's criminal history that includes a
111 crime listed in s. 775.21(4) (a)1. or s. 776.08 at any time only
112 if such criminal history has been found to relate to the
113 practice of the applicable profession.

114 2. The applicable board may consider the criminal history
115 of an applicant for licensure under subparagraph (a)3. if such
116 criminal history has been found to relate to good moral

577-04020-19

2019334c2

117 character.

118 (c)1. A person may apply for a license before his or her
119 lawful release from confinement or supervision. The department
120 may not charge an applicant an additional fee for being confined
121 or under supervision. The applicable board may not deny an
122 application for a license solely on the basis of the applicant's
123 current confinement or supervision.

124 2. After a license application is approved, the applicable
125 board may stay the issuance of a license until the applicant is
126 lawfully released from confinement or supervision and the
127 applicant notifies the applicable board of such release. The
128 applicable board must verify the applicant's release with the
129 Department of Corrections before it issues a license.

130 3. If an applicant is unable to appear in person due to his
131 or her confinement or supervision, the applicable board must
132 permit the applicant to appear by teleconference or video
133 conference, as appropriate, at any meeting of the applicable
134 board or other hearing by the agency concerning his or her
135 application.

136 4. If an applicant is confined or under supervision, the
137 Department of Corrections and the applicable board shall
138 cooperate and coordinate to facilitate the appearance of the
139 applicant at a board meeting or agency hearing in person, by
140 teleconference, or by video conference, as appropriate.

141 (d) Each applicable board shall compile a list of crimes
142 that, if committed and regardless of adjudication, do not relate
143 to the practice of the profession or the ability to practice the
144 profession and do not constitute grounds for denial of a
145 license. This list shall be made available on the department's

577-04020-19

2019334c2

146 website and be updated annually. Beginning October 1, 2019, each
147 applicable board shall compile a list of crimes that although
148 reported by an applicant for licensure, were not used as a basis
149 for denial. The list must identify the crime reported and the
150 date of conviction, finding of guilt, plea, or adjudication
151 entered or the date of sentencing for each such license
152 application.

153 (e) Each applicable board shall compile a list of crimes
154 that have been used as a basis for denial of a license in the
155 past 2 years, which shall be made available on the department's
156 website. Starting October 1, 2019, and updated quarterly
157 thereafter, the applicable board shall compile a list indicating
158 each crime used as a basis for denial. For each crime listed,
159 the applicable board must identify the date of conviction,
160 finding of guilt, plea, or adjudication entered, or date of
161 sentencing. Such denials shall be available to the public upon
162 request.

163 Section 2. Section 489.107, Florida Statutes, is amended to
164 read:

165 489.107 Construction Industry Licensing Board.—

166 (1) To carry out the provisions of this part, there is
167 created within the department the Construction Industry
168 Licensing Board. Members shall be appointed by the Governor,
169 subject to confirmation by the Senate. Members shall be
170 appointed for 4-year terms. A vacancy on the board shall be
171 filled for the unexpired portion of the term in the same manner
172 as the original appointment. No member shall serve more than two
173 consecutive 4-year terms or more than 11 years on the board.

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

577-04020-19

2019334c2

175 (a) Two ~~Four~~ are primarily engaged in business as general
176 contractors;

177 (b) Three are primarily engaged in business as building
178 contractors or residential contractors, however, at least one
179 building contractor and one residential contractor shall be
180 appointed;

181 (c) One is primarily engaged in business as a roofing
182 contractor;

183 ~~(d) One is primarily engaged in business as a sheet metal~~
184 ~~contractor;~~

185 ~~(e) One is primarily engaged in business as an air-~~
186 ~~conditioning contractor;~~

187 (d) ~~(f)~~ One is primarily engaged in business as a mechanical
188 contractor;

189 (e) ~~(g)~~ One is primarily engaged in business as a pool
190 contractor;

191 (f) ~~(h)~~ One is primarily engaged in business as a plumbing
192 contractor; and

193 (g) ~~(i)~~ One is primarily engaged in business as an
194 underground utility and excavation contractor;

195 ~~(j) Two are consumer members who are not, and have never~~
196 ~~been, members or practitioners of a profession regulated by the~~
197 ~~board or members of any closely related profession; and~~

198 ~~(k) Two are building officials of a municipality or county.~~

199 (3) To be eligible to serve, each contractor member must
200 have been certified by the board to operate as a contractor in
201 the category with respect to which the member is appointed, be
202 actively engaged in the construction business, and have been so
203 engaged for a period of not less than 5 consecutive years before

577-04020-19

2019334c2

204 the date of appointment. Each appointee must be a citizen and
205 resident of the state.

206 (4) The board shall be divided into two divisions, Division
207 I and Division II.

208 (a) Division I is comprised of the general contractor,
209 building contractor, and residential contractor members of the
210 board; ~~one of the members appointed pursuant to paragraph~~
211 ~~(2)(j); and one of the members appointed pursuant to paragraph~~
212 ~~(2)(k)~~. Division I has jurisdiction over the regulation of
213 general contractors, building contractors, and residential
214 contractors.

215 (b) Division II is comprised of the roofing contractor,
216 ~~sheet metal contractor, air-conditioning contractor,~~ mechanical
217 contractor, pool contractor, plumbing contractor, and
218 underground utility and excavation contractor members of the
219 board; ~~one of the members appointed pursuant to paragraph~~
220 ~~(2)(j); and one of the members appointed pursuant to paragraph~~
221 ~~(2)(k)~~. Division II has jurisdiction over the regulation of
222 contractors defined in s. 489.105(3)(d)-(p).

223 (c) Jurisdiction for the regulation of specialty
224 contractors defined in s. 489.105(3)(q) shall lie with the
225 division having jurisdiction over the scope of work of the
226 specialty contractor as defined by board rule.

227 (5) Three ~~Five~~ members of Division I constitute a quorum,
228 and three ~~five~~ members of Division II constitute a quorum. The
229 combined divisions shall meet together at such times as the
230 board deems necessary, but neither division, nor any committee
231 thereof, shall take action on any matter under the jurisdiction
232 of the other division. However, if either division is unable to

577-04020-19

2019334c2

233 obtain a quorum for the purpose of conducting disciplinary
234 proceedings, it may request members of the other division, who
235 are otherwise qualified to serve on the division unable to
236 obtain a quorum, to join in its deliberations. Such additional
237 members shall vote and count toward a quorum only during those
238 disciplinary proceedings.

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

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

244 489.553 Administration of part; registration
245 qualifications; examination.—

246 (7) Notwithstanding any other provision of law, a
247 conviction, or any other adjudication, for a crime more than 5
248 years before the date the application is received by the
249 department may not be grounds for denial of registration. For
250 purposes of this subsection, the term "conviction" means a
251 determination of guilt that is the result of a plea or trial,
252 regardless of whether adjudication is withheld. This subsection
253 does not limit a board from considering an applicant's criminal
254 history that includes any crime listed in s. 775.21(4)(a)1. or
255 s. 776.08 at any time only if such criminal history has been
256 found to relate to the practice of the applicable profession, or
257 any crime if it has been found to relate to good moral
258 character.

259 (8) (a) A person may apply to be registered before his or
260 her lawful release from confinement or supervision. The
261 department may not charge an applicant an additional fee for

577-04020-19

2019334c2

262 being confined or under supervision. The department may not deny
263 an application for registration solely on the basis of the
264 applicant's current confinement or supervision.

265 (b) After a registration application is approved, the
266 department may stay the issuance of registration until the
267 applicant is lawfully released from confinement or supervision
268 and the applicant notifies the board of such release. The
269 department must verify the applicant's release with the
270 Department of Corrections before it registers such applicant.

271 (c) If an applicant is unable to appear in person due to
272 his or her confinement or supervision, the department must
273 permit the applicant to appear by teleconference or video
274 conference, as appropriate, at any meeting or hearing by the
275 department concerning his or her application.

276 (d) If an applicant is confined or under supervision, the
277 Department of Corrections and the department shall cooperate and
278 coordinate to facilitate the appearance of the applicant at a
279 meeting or hearing in person, by teleconference, or by video
280 conference, as appropriate.

281 (9) The department shall compile a list of crimes that, if
282 committed and regardless of adjudication, do not relate to the
283 practice of the profession or the ability to practice the
284 profession and do not constitute grounds for denial of
285 registration. This list shall be made available on the
286 department's website and be updated annually. Beginning October
287 1, 2019, and updated quarterly thereafter, the department shall
288 add to this list such crimes that although reported by an
289 applicant for registration, were not used as a basis for denial
290 in the past 2 years. The list must identify the crime reported

577-04020-19

2019334c2

291 and the date of conviction, plea, adjudication, or sentencing
292 for each such registration application.

293 (10) The department shall compile a list of crimes that
294 have been used as a basis for denial of registration in the past
295 2 years, which shall be made available on the department's
296 website. Beginning October 1, 2019, and updated quarterly
297 thereafter, the department shall add to this list each crime
298 used as a basis for denial. For each crime listed, the
299 department must identify the date of conviction, plea,
300 adjudication, or sentencing. Such denials shall be available to
301 the public upon request.

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