

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 667 Department of Business and Professional Regulation

SPONSOR(S): McClain

TIED BILLS: IDEN./SIM. BILLS: SB 714

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating various businesses and professions throughout the state, including asbestos professionals, mold-related professionals, electrical contractors, public lodging establishments, and public food service establishments.

Related to mold-related professional licensing regulations, the bill provides a pathway for a person who holds a license in another state to obtain a Florida license.

Related to asbestos professional licensing regulations, the bill:

- provides a limited pathway for a person who holds a license in another state to obtain a Florida license, and
- removes the requirement to show limits of bondability and credit to demonstrate financial stability as required for initial licensure.

Related to electrical contractors licensing regulations, the bill allows certain local electrical and alarm contractors to be licensed statewide.

Related to pugilistic exhibitions, the bill removes the maximum participant weight differential requirement for all exhibition matches. This will allow any exhibition to include participants who are not in the same weight category.

Related to public lodging establishments and public food service establishments, the bill:

- requires licensees to submit certain documents, fees, and communications online;
- requires licensees to provide an email address for primary communication with DBPR;
- allows notices to be served to the operator of a licensed establishment via email, in addition to in-person service and registered mail;
- allows the guest registry at a transient public lodging establishment to be kept online, and guests are no longer required to sign the registry;
- allows 2-year renewals on licenses, instead of only one-year renewals; and
- removes the requirement for a staggered initial license fee schedule.

The bill has an effective date of July 1, 2022.

The bill has a negative fiscal impact on state government and no impact on local governments. The loss of revenue for the Division of Hotels and Restaurants over three fiscal years would be an estimated \$5,097,633. See Fiscal Analysis & Economic Impact Statement.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various 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 licenses and regulates various professions through 12 professional boards, five programs, and one council, including the:²

- Asbestos Licensing Unit,
- Electrical Contractors' Licensing Board (ECLB), and
- Mold-Related Services Program.

The Division of Regulation is the enforcement authority for Labor Organizations and Business Agents, the Florida Athletic Commission (FAC), Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.³

The Division of Hotels and Restaurants under DBPR (H&R) licenses, inspects and regulates public lodging and food service establishments in Florida.⁴

Mold-Related Services

Background

Mold assessors and mold remediators are regulated by part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program in DBPR.

“Mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than 10 square feet.⁵

¹ s. 20.165, F.S.

² Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/> (last visited Jan. 14, 2022).

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/division-of-regulation/> (last visited Jan. 14, 2022).

⁴ Florida Department of Business and Professional Regulation, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 14, 2022).

⁵ S. 468.8411(3), F.S.

“Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than 10 square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under Ch. 489, F.S.⁶

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

- be of good moral character,
- pass the required DBPR-approved examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation,
- have required liability insurance, and
- complete either:
 - 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.⁷

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:⁸

- are of good moral character;
- hold required general liability insurance;
- hold 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
- have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the required Florida examination.

Applicants for a mold-related license pay an initial licensure fee of \$230. There are currently 2,700 licensed mold assessors and 2,727 licensed mold remediators in the state.⁹

Effect of the Bill

The bill allows applicants who hold a mold-related license in another state to obtain a license by endorsement in Florida, if they have held a valid license to practice in another state or territory of the United States for at least 10 years before the date of application, without needing to take a Florida-specific examination or training.

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 clarifies the provision relating to licensure examination requirements.

Asbestos Consultants and Contractors

Background

Asbestos consultants and contractors are regulated by Ch. 469, F.S., and licensed by the Asbestos Licensing Unit in DBPR. Florida licensing standards must also comply with the United States Environmental Agency Asbestos Model Accreditation Plan for States (MAP), which includes mandatory nationwide standards for testing and education.¹⁰

“Asbestos abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.¹¹

⁶ S. 468.8411(5), F.S.

⁷ S. 468.8413(2), F.S.

⁸ S. 468.8414(3), (4), F.S.

⁹ Email from Cody McCloud, Legislative Affairs Director, Department of Business and Professional Regulation, RE: HB 667 (Jan. 6, 2022).

¹⁰ 40 CFR § 763 Subp. E App. C.

¹¹ S. 469.001(1), F.S.

An asbestos consultant may:

- conduct an asbestos survey,
- develop an operation and maintenance plan,
- monitor and evaluate asbestos abatement, and
- prepare asbestos abatement specifications.¹²

An asbestos contractor may perform the work of an asbestos consultant and also conduct asbestos abatement work.¹³

In order to be eligible to be licensed as an asbestos consultant or contractor, an applicant must meet one of the following criteria:¹⁴

- hold a current, valid, active license as an architect issued under Ch. 481, F.S.;
- hold a current, valid, active license as a professional engineer issued under Ch. 471, F.S.,
- hold a current, valid, active license as a professional geologist under Ch. 492, F.S.;
- be a diplomat of the American Board of Industrial Hygiene; or
- have been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

An applicant for licensure as either an asbestos consultant or contractor must also:¹⁵

- if applying for an asbestos consultant license, complete DBPR-approved courses in the following topics:
 - building asbestos surveys and mechanical systems,
 - asbestos management planning,
 - respiratory protection, and
 - project designer.
- if applying for an asbestos contractor license, complete courses in the following topics:
 - asbestos contractor/supervisor, and
 - respiratory protection.
- provide evidence of satisfactory work on 10 asbestos projects within the last 5 years,
- provide evidence of financial stability, and
- pass the DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,¹⁶ DBPR must use both the applicant's credit history and **limits of bondability and credit**.¹⁷

There is no provision which specifically allows or addresses licenses by endorsement for asbestos licensees of other states.

Applicants for an asbestos license pay a business license fee of \$555, an initial licensure fee of \$555, and an examination fee of \$340.¹⁸ There are currently 119 licensed asbestos contractors and 106 licensed asbestos consultants in the state.¹⁹ DBPR has averaged 33 asbestos applications per year over the last three fiscal years.²⁰

Effect of the Bill

The bill allows applicants who hold an asbestos license in another state license to obtain a license by endorsement in Florida if they have:

- passed a written examination in any state that meets the requirements of MAP,

¹² S. 469.003, F.S.

¹³ S. 469.003(3), F.S.

¹⁴ S. 469.004(1), F.S.

¹⁵ S. 469.005, F.S.

¹⁶ The standards for determining an applicant's financial stability can be found in rule 61E1-4.002, F.A.C.

¹⁷ S. 469.006(2)(c)2., F.S.

¹⁸ R. 61E1-3.001, F.A.C.

¹⁹ DBPR, *supra* note 9.

²⁰ Department of Business and Professional Regulation, Agency Analysis of 2022 Senate Bill 714, p. 9 (Jan. 14, 2022).

- held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years,
- demonstrated financial stability, and
- completed the required DBPR-approved courses.

Such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

The bill removes the requirement that applicants show **limits of bondability and credit** in order to prove financial stability. Applicants will still need to provide their credit history to meet financial stability standards.

Electrical Contractors

Background

Statewide electrical, alarm system, and specialty contractors are regulated by part II of Ch. 489, F.S., and licensed and regulated by the ECLB within DBPR.²¹ An electrical contractor engages in business as a contractor or performs electrical or alarm work for compensation.²²

Electrical contractors may work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work.²³

Alarm system contractors may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service burglary, fire, robbery, or medical emergency alarm systems.²⁴

In order to become a certified electrical, alarm system, or specialty contractor, an applicant must:²⁵

- be at least 18 years of age;
- be of good moral character;
- pass the certification examination;
- have workers' compensation insurance or an exemption, and public liability and property damage insurance; and
- meet certain training and education criteria.

A registered contractor is an individual that have taken and passed a local competency examination and can practice the specific category of contracting for which they are approved, only in the local jurisdiction for which the license is issued.²⁶ Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license.²⁷

Section 489.514, F.S., created a pathway that allowed registered local electrical and alarm contractors who met certain criteria to have their local registration converted into a certified statewide license by the ECLB. The provision required applicants to apply by November 1, 2021, and is thus is no longer available for use by local registered contractors. This provision is commonly referred to as the "grandfathering provision."

Any registered contractor wishing to have their license "grandfathered" into a certified license had to submit a completed application to the ECLB, pay an appropriate fee, and show evidence of the following criteria:

²¹ S. 489.507, F.S.

²² S. 489.505(9), F.S.

²³ Ss. 489.505(12) & 489.537(7), F.S.

²⁴ S. 489.505(1)-(2), F.S.

²⁵ S. 489.511(1) & (4), F.S.

²⁶ S. 489.505(21)-(23), F.S.

²⁷ S. 489.513, F.S.

- currently holds a valid registered local license in the certification of electrical contractor, alarm system contractor, or electrical specialty contractor sought;
- has, for the certification category sought, passed a written, proctored examination that the ECLB finds to be substantially similar to the examination required to be licensed as a certified contractor;
- has at least 5 years of experience as a contractor in the certification category sought, or as an inspector or building administrator with oversight over that category. For contractors, only time periods in which the contractor license is active and the contractor is not on probation shall count toward the required 5 years;
- has not had the contractor's license revoked at any time, suspended in the last 5 years, or assessed a fine in excess of \$500 in the last 5 years; and
- has the required workers' compensation insurance or an exemption, and public liability and property damage insurance.²⁸

DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.²⁹

Effect of the Bill

The bill reopens the grandfathering provision for locally registered electrical, alarm system, and specialty contractors to obtain licensure as statewide certified contractors without an expiration date.

Pugilistic Exhibitions

Background

Chapter 548, F.S., governs the FAC under DBPR. The function of the FAC is to license and regulate pugilistic events and matches, including professional boxing, kickboxing, and mixed martial arts. The FAC ensures that all matches are conducted in accordance with provisions of state laws and rules.

A match participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician,³⁰ matchmaker, or promoter must be licensed by FAC before directly or indirectly acting in such capacity in connection with any match. In order to obtain a license, an applicant must:³¹

- complete an application in a form prescribed by the FAC,
- be at least 18 years of age, and
- pay an application fee.

An "exhibition" is a boxing, kickboxing, or mixed martial arts engagement in which persons participating show or display their skill without necessarily striving to win using strikes and blows to the head or other full-contact maneuvers.³² Participants in an exhibition, except one held solely for training purposes, must weigh within 12 pounds of each other.³³

Effect of the Bill

The bill removes the maximum participant weight differential requirement for all exhibition matches. This will allow any exhibition to include participants that are more than 12 pounds from each other.

Hotels and Restaurants

²⁸ S. 489.514, F.S.

²⁹ DBPR, *supra* note 20, at 9.

³⁰ A physician must be licensed pursuant to chapter 458 or chapter 459, must maintain a license in good standing, and must demonstrate satisfactory medical training or experience in boxing. S. 548.017, F.S.

³¹ S. 548.021, F.S.

³² S. 548.002(8), F.S.

³³ S. 548.043(2), F.S.

“Public lodging establishment” includes:³⁴

- “Transient public lodging establishments,” which means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days, or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests; and
- “Nontransient public lodging establishments,” which means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Classifications of public lodging establishments include hotels, motels, vacation rentals, apartments, bed and breakfast inns, and timeshare projects.³⁵

“Public food service establishments” means any building, vehicle, place, or structure, or any room or division thereof, where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption, with certain exceptions.³⁶

Classifications of public food service establishments include permanent food service restaurants, catering services, mobile food dispensing vehicles, vending machines, theme park carts, culinary education programs, and temporary food service events.³⁷

Electronic Communications - Background

While H&R has rulemaking authority to adopt rules to implement Ch. 509, F.S., H&R does not have authority to adopt rules to require electronic submissions for any required document or fee from a licensee, or for H&R to require online communications with a licensee.³⁸ There is also no statutory requirement that such documents, fees or communications be transmitted online or for licensees to give an email address to H&R.³⁹

Notices that are served by H&R must be delivered to the operator of a licensed establishment by an H&R agent or by registered mail. If H&R is unable to effect service, the notice may be conspicuously posted at the licensee’s establishment.⁴⁰ Inspection reports may be served via electronic means.

Each transient public lodging establishment is required to maintain a register of guests who occupy rental units in the establishment. The guests must also sign the registry. There is not a specific allowance that the registry may be kept in an electronic format.

Electronic Communications – Effect of the Bill

The bill gives rulemaking authority to H&R to adopt rules to mandate that certain documents, fees, and communications must be made online. H&R may prescribe requirements and procedures for exemptions due to technological or financial hardship.

The bill requires all H&R licensees to provide an email address to function as the primary method of communication with H&R.

³⁴ S. 509.013(4), F.S.

³⁵ S. 509.242, F.S.

³⁶ S. 509.013(5), F.S.

³⁷ R. 61C-1.002, F.A.C.; Florida Department of Business and Professional Regulation, *Hotels and Restaurants – Licensing Guides*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/licensing-guides/> (last visited Jan. 14, 2022).

³⁸ S. 509.032, F.S.

³⁹ S. 509.091, F.S.

⁴⁰ S. 509.091(1), F.S.

The bill allows H&R to serve notices to the operator of a licensed establishment via email, in addition to in-person service and registered mail.

The bill allows the guest registry at a transient public lodging establishment to be kept online, and guests are no longer required to sign the registry.

Licensure Fees- Background

Each public lodging establishment and public food service establishment must obtain a license from H&R. Licenses are renewed annually, and H&R must adopt a rule establishing a staggered schedule for license renewals.⁴¹

The staggered initial license fee schedules require such establishments applying for an initial license to pay the full license fee if the application is made during the annual renewal period or more than 6 months before the next such renewal period, and one-half of the fee if the application is made 6 months or less before the next renewal period.⁴² For example: if an applicant is applying for a hotel license with between 26 and 50 rental units, the initial license fee is \$215, but if such applicant is applying for the license less than 6 months before the beginning of the next renewal period, the initial license fee is \$112.50. Such applicant will need to pay the full annual fee when the next renewal period begins.⁴³

H&R adopts, by rule, a schedule of fees to be paid by each public lodging establishment and public food service establishment for the issuance or renewal of a license. Such fees are based on the number of rental units in the public lodging establishment, and based on seating capacity and services offered for public food service establishments. Licenses must be renewed annually.⁴⁴ License fees generally range from \$91 for a temporary food vendor to \$357 for a hotel with 501 or more rental units.⁴⁵

Licensure Fees- Effect of the Bill

The bill removes the requirement for a staggered initial license fee schedule for public lodging establishments and public food service establishments, and instead provides for an initial license that may be renewed for one or two years. Applications for licensure must be made on forms provided by H&R, and H&R must adopt rules for license issuance and renewal.

The bill provides that license renewal fees for public lodging establishments must be based on the number of rental units in the establishment and whether the renewal is for one or two years. License renewal fees for public food service establishments must be based on the classification of the license and whether the renewal is for one or two years.

The bill provides that the statutory maximum fee for a public lodging establishment for a two-year renewal is set at \$2,000, which is double the currently allowed maximum for annual renewals. The statutory maximum fee for a public food service establishment for a two-year renewal is set at \$800, which is double the currently allowed maximum for annual renewals.

The bill clarifies that all fees be must be paid by the applicant when the license application is submitted to H&R.

B. SECTION DIRECTORY:

⁴¹ S. 509.241(1), F.S.

⁴² S. 509.251(1), (2), F.S.

⁴³ S. 509.251(1), (2), F.S.; Department of Business and Professional Regulation, *Hotel and Restaurants – Hotel-Motel Guide*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/hotels-and-restaurants-hotel-motel-guide/> (last visited Jan. 14, 2022).

⁴⁴ S. 509.251(1), (2), F.S.

⁴⁵ R. 61C-1.008, F.A.C.

- Section 1** Amends s. 468.8414, F.S., revising licensure requirements for mold assessors and remediators.
- Section 2** Amends s. 469.004, F.S., revising licensure requirements for asbestos consultants and contractors.
- Section 3** Amends s. 469.006, F.S., revising licensure requirements for asbestos consultants and contractors.
- Section 4** Amends s. 489.514, F.S., removing a deadline for an electrical contractor licensing provision.
- Section 5** Amends s. 509.032, F.S., providing rulemaking authority for electronic form submissions for hotels and restaurants.
- Section 6** Amends s. 509.091, F.S., revising requirements for hotel and restaurant inspection reports.
- Section 7** Amends s. 509.101, F.S., revising requirements for hotel guest registries.
- Section 8** Amends s. 509.241, F.S., revising fee schedules for public lodging establishments and public food service establishments.
- Section 9** Amends s. 509.251, F.S., revising fee schedules for public lodging establishments and public food service establishments.
- Section 10** Amends s. 548.043, F.S., revising participant weights differentials for certain pugilistic exhibitions.
- Section 11** Reenacts s. 509.102, F.S.
- Section 12** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DBPR expects the following fiscal impacts on revenues:⁴⁶

Division of Hotels and Restaurants

Based on internal projections for FY 2022-23, the bill would reduce H&R’s license revenue by approximately 6%.

Under the current license fee structure, about 58% of new applicants pay an initial license fee for some fraction of time and then pay H&R again to renew their license within the same fiscal year.

Under the bill, H&R will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The bill would eliminate half year prorating of license fees, replacing it with a full year which slightly increases revenue, but results in a true “annual license” from the start with no same fiscal year renewals.

Overall, based on internal projections for FY 2022-23, the initiative would reduce license revenue by \$1,652,302, or roughly 6%. The figures assume a 2.81% annual growth rate in H&R license revenue.

	FY22-23	FY23-24	FY24-25
Estimated Division License Revenue	\$25,634,761	\$26,355,779	\$27,097,076
Estimated Revenue Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)
% Change	- 6%	- 6%	- 6%

H&R is unable to predict how many licensees will choose a 2-year license or renewal, so it is unknown how the 2-year option would affect revenue.

⁴⁶ DBPR, *supra* note 20, at 6-7.
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Division of Professions

The fiscal impact is indeterminate. There is a maximum \$399,056 of potential grandfathering fee revenue over the next three years based on the number of based on the potential number of applicants of currently registered local contractors.

2. Expenditures:

Division of Hotels & Restaurants

There is an anticipated reduction in the 8% service charge to General Revenue due to a reduction in license fees and possible reduction in postage expenditures.⁴⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments could see an insignificant decrease in revenues associated with renewal and reciprocity fees if eligible registered contractors choose to apply for the grandfathering provision created in the bill for ECLB licensees.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision. Thus, making more electrical contractors available to work across the state.

The removal of the bond and credit limitation proof requirement will likely reduce costs to asbestos applicants.

The bill will likely generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. DBPR estimates licensees will save about \$1.65 million in FY 22-23. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure. Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year.⁴⁸

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

⁴⁷ DBPR, *supra* note 20, at 7.

⁴⁸ *Id.*

The bill will require DBPR to amend rules related to asbestos licensing standards and pugilistic exhibition requirements.

The bill gives rulemaking authority to H&R to adopt rules relating to electronic communications and license issuance and renewal.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES