

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 869 Department of Business and Professional Regulation Licensing

SPONSOR(S): State Administration & Technology Appropriations Subcommittee, McClain

TIED BILLS: **IDEN./SIM. BILLS:** SB 782

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	12 Y, 0 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	12 Y, 0 N, As CS	Helping	Topp
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 and asbestos 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 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 by mail; and
- allows the guest registry at a transient public lodging establishment to be kept online, and guests are no longer required to sign the registry.

The bill has a positive fiscal impact on state government revenues. There is an indeterminate, but likely minimal negative fiscal impact on local governments and a positive fiscal impact on the private sector. See Fiscal Analysis & Economic Impact Statement.

The bill has an effective date of July 1, 2023.

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 the Division of Professions.³

The Division of Hotels and Restaurants (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 ch. 468, part XVI, F.S., and licensed by the Mold-Related Services Licensing Program⁵ 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 ten square feet.⁶

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 Feb. 24, 2023).

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 Feb. 24, 2023).

⁴ Florida Department of Business and Professional Regulation, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 24, 2023).

⁵ S. 468.84, F.S.

⁶ 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 ten 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.⁷

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 two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
 - a high school diploma or the equivalent with a minimum of four years of experience.⁸

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:⁹

- 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 3,252 licensed mold assessors and 3,208 licensed mold remediators in the state. In the most recent fiscal year, there were 25 applicants for a license by endorsement.¹⁰

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 ten 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 two 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 U.S. Environmental Protection Agency’s Asbestos Model Accreditation Plan for States (MAP), which includes mandatory nationwide standards for testing and education.¹¹

“Asbestos abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.¹²

⁷ S. 468.8411(5), F.S.

⁸ S. 468.8413(2), F.S.

⁹ S. 468.8414(3), (4), F.S.

¹⁰ Email from Jonas Marquez, Legislative Affairs Director, Department of Business and Professional Regulation, RE: HB 869 (Feb. 28, 2023).

¹¹ 40 C.F.R. § 763 Appendix C to Subpart E.

¹² 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.¹³

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.¹⁴

In order to be eligible to be licensed as an asbestos consultant or contractor, an applicant must meet one of the following criteria:¹⁵

- 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 also must:¹⁶

- 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 ten asbestos projects within the last five years,
- provide evidence of financial stability, and
- pass the DBPR-approved examination.

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

Applicants for an asbestos license pay an initial licensure fee of \$555, and an examination fee of \$316. There are currently 136 licensed asbestos contractors and 111 licensed asbestos consultants in the state. DBPR has received an average of 33 asbestos applications per year over the last three fiscal years. In the most recent fiscal year, there were 57 applicants for an asbestos professional license.¹⁷

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,
- held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least ten years,

¹³ S. 469.003, F.S.

¹⁴ S. 469.003(3), F.S.

¹⁵ S. 469.004(1), F.S.

¹⁶ S. 469.005, F.S.

¹⁷ DBPR, *supra* note 10.

- 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.

Electrical Contractors

Background

Statewide electrical, alarm system, and specialty contractors are regulated by of ch. 489, part II, F.S., and licensed and regulated by the ECLB within DBPR.¹⁸ An electrical contractor engages in business as a contractor or performs electrical or alarm work for compensation.¹⁹

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.²⁰

Alarm system contractors may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service burglary, fire, robbery, or medical emergency alarm systems.²¹

In order to become a certified electrical, alarm system, or specialty contractor, an applicant must:²²

- 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 has 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.²³ 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.²⁴

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:

- 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;

¹⁸ S. 489.507, F.S.

¹⁹ S. 489.505(9), F.S.

²⁰ Ss. 489.505(12) & 489.537(7), F.S.

²¹ S. 489.505(1)-(2), F.S.

²² S. 489.511(1) & (4), F.S.

²³ S. 489.505(21)-(23), F.S.

²⁴ S. 489.513, F.S.

- has at least five 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 five years;
- has not had the contractor’s license revoked at any time, suspended in the last five years, or assessed a fine in excess of \$500 in the last five years; and
- has the required workers’ compensation insurance or an exemption, and public liability and property damage insurance.²⁵

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, 2021.²⁶

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,²⁷ matchmaker, or promoter must be licensed by the FAC before directly or indirectly acting in such capacity in connection with any match. In order to obtain a license, an applicant must:²⁸

- 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.²⁹ Participants in an exhibition, except one held solely for training purposes, must weigh within 12 pounds of each other.³⁰

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 weigh more or less than 12 pounds from their opponent.

Hotels and Restaurants

“Public lodging establishment” includes:³¹

²⁵ S. 489.514, F.S.

²⁶ DBPR, *supra* note 10.

²⁷ 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.

²⁸ S. 548.021, F.S.

²⁹ S. 548.002(8), F.S.

³⁰ S. 548.043(2), F.S.

³¹ S. 509.013(4), F.S.

- “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.³²

“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.³³

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.³⁴

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.³⁵ There is also no statutory requirement that such documents, fees, or communications be transmitted online or for licensees to provide an email address to H&R.³⁶

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.³⁷ 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 requires all H&R licensees to provide an email address to function as the primary method of communication with H&R.

The bill allows H&R to serve notices or inspection reports to the operator of licensed establishments via email, in addition to in-person service and mail.

The bill requires each public lodging establishment or a public food service establishment, and any person who plans to open a licensed establishment, to create and maintain an online account and provide an e-mail address to function as the primary contact for all communication from H&R. Licensed establishments are responsible for maintaining accurate contact information on file.

³² S. 509.242, F.S.

³³ S. 509.013(5), F.S.

³⁴ 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 Feb. 24, 2023).

³⁵ S. 509.032, F.S.

³⁶ S. 509.091, F.S.

³⁷ S. 509.091(1), F.S.

Each vacation rental or timeshare project must submit any change in the street or unit address or number of houses or units included under the license within 30 days of the change. All changes must be filed through the H&R's online system

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

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

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

- 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. 489.514, F.S., removing a deadline for an electrical contractor licensing provision.
- Section 4:** Amends s. 509.091, F.S., revising requirements for hotel and restaurant inspection reports.
- Section 5:** Amends s. 509.101, F.S., revising requirements for hotel guest registries.
- Section 6:** Amends s. 509.241, F.S., requiring certain persons, licensees, and licenses agents to create and maintain a division online account.
- Section 7:** Amends s. 548.043, F.S., revising participant weight differentials for certain pugilistic exhibitions.
- Section 8:** 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:³⁸

Division of Professions

Indeterminate; An increase of up to \$399,056 in revenue from the grandfathering fee over the next three years (see Fiscal Comments).

2. Expenditures:

DBPR does not anticipate a change in state expenditures as a result of the bill.

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:

³⁸ Department of Business and Professional Regulation (DBPR), Agency Analysis of 2023 Senate Bill 782, p. 6 (Mar. 2, 2023)

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 who choose to take advantage of the grandfathering provision. It would also allow more electrical contractors to work across the state.

D. FISCAL COMMENTS:

Grandfathering Provision:³⁹

Revenue from an electrical contractor grandfathering fee is indeterminate because it is unknown how many eligible registered ECLB licensees will apply for grandfathering. The total fee (application fee, initial licensing fee, and unlicensed activity fee) during the end of the previous grandfathering period was \$196. There are 2,036 Registered Current Active/Inactive ECLB licensees who may be able to take advantage of the grandfathering provision. However, the department received only 766 applications during the last period of grandfathering, which was from July 1, 2019 to November 1, 2021.

Assuming total application/license fees of \$196, the grandfathering fees received by DBPR over the next three fiscal years could range from \$150,136.00 (if the department receives the same number of applications as the last grandfathering period) to a maximum of \$399,056.00 if all 2,036 Registered Current Active/Inactive licensees apply over the next three fiscal years.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill will require DBPR to amend rules related to:

- Mold-related professional licensing standards,
- Asbestos professional licensing standards,
- Pugilistic exhibition requirements,
- Licensed establishment electronic communications, and
- Licensed establishment license issuance and renewal.

DBPR has current authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

³⁹ *Id.* at 10.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 29, 2023, the State Administration & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute removed all modifications to hotels and restaurants licensing including modified schedules and maximum fees.

This analysis is drafted to the committee substitute as passed by the State Administration & Technology Appropriations Subcommittee.