

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1273 Reciprocity or Endorsement of Licensure
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Plasencia
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 1 N, As CS	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

An occupational or professional license is a form of government regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain governmental authorization to work in a specific field. The Florida Department of Business and Professional Regulation (DBPR), through 11 divisions, regulates and licenses businesses and professionals in Florida.

For professional licenses granted by DBPR, a license by endorsement means a license that may be granted to an applicant based on their license and qualifications in another jurisdiction. A reciprocal license is a license that may be granted in Florida based on a license in another jurisdiction subject to a reciprocal agreement with Florida.

The bill requires that before a board, or DBPR if there is no board, denies an application for licensure by reciprocity or by endorsement based on a finding that the requirements of the basis license in another jurisdiction are not substantially equivalent or are otherwise insufficient for a license in Florida, it must submit the finding to the DBPR Secretary for review.

The Secretary may agree with the finding and deny the application for licensure, or disagree with the finding and issue the license. The decision must be entered according to the Secretary's decision.

If the Secretary makes a finding that the requirements of a basis license in another jurisdiction are substantially equivalent to or otherwise sufficient for a license in this state, the board, or the department if there is no board, must make the same finding for similar applicants from the same jurisdiction, unless the requirements of the basis license change.

The bill provides that the term "basis license" means the license or the licensure requirements of another jurisdiction which are used to meet the requirements for a license in Florida.

The bill will have an indeterminate fiscal impact on state government and no impact on local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Occupational Licensing

An occupational or professional license is a form of government regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain governmental authorization to work in a specific field.¹

An estimated 23.5 percent of the civilian labor force nationwide has an occupational license.² Various governmental entities and agencies in Florida license and regulate such individuals practicing in a wide range of professions.³

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR), through 11 divisions, regulates and licenses businesses and professionals in Florida.⁴

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.⁵

The Division of Regulation is the enforcement authority for the Florida Athletic Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.⁶

¹ The White House, *Occupational Licensing: A Framework for Policymakers*, 6 (July 2015)

https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf (last visited on Jan. 20, 2024).

² Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, 2021*, [Certification and licensing status of the civilian noninstitutional population 16 years and over by employment status \(bls.gov\)](https://www.bls.gov/news.release/archives/lfr210101.pdf), (last visited on Jan. 20, 2024).

³ Chs. 20, 25, F.S.

⁴ S. 20.165, F.S.

⁵ Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/> (last visited Jan. 21, 2024).

⁶ Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.

To ensure compliance with applicable laws and rules by those professions and related businesses, the division investigates complaints, utilizes compliance mechanisms, and performs inspections.⁷

The Division of Certified Public Accounting is responsible for the regulation of certified public accountants and accounting firms in the state.⁸

The Division of Real Estate is responsible for the regulation of real estate sales associates, brokers, and appraisers, in conjunction with the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.⁹

DBPR may regulate professions “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”¹⁰ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.¹¹

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.¹²

In Fiscal Year 2022-2023, there were 950,380 active licensees regulated by the DBPR or a board within the department, including 39,336 active licensees in the Division of Certified Public Accounting, 486,336 active licensees in the Division of Professions, and 67,827 active licensees under the Board of Professional Engineers.¹³

Chapter 455

Each profession is governed by an individual practice act and by Ch. 455, F.S., which provides the general powers of DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under DBPR.¹⁴ Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by DBPR in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”¹⁵

License Portability

For professional licenses granted by DBPR, a license by endorsement means a license that may be granted to an applicant based on their license and qualifications in another jurisdiction.

Certain DBPR professional practice acts allow the applicable board to enter into reciprocal licensing agreements with other states under certain circumstances.¹⁶ DBPR or a board thereunder must enter

⁷ Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/DBPR/division-of-regulation/> (last visited Jan. 21, 2024).

⁸ S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, [Certified Public Accounting – MyFloridaLicense.com](http://www.myfloridalicense.com) (last visited Jan. 21, 2024).

⁹ S. 475.021, F.S.

¹⁰ S. 455.201(2), F.S.

¹¹ S. 455.201(2), F.S.

¹² S. 455.201(4)(b), F.S.

¹³ See Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2022-2023*, p. 18, available at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2022-23.pdf> (last visited Jan. 21, 2024).

¹⁴ S. 455.203, F.S.

¹⁵ S. 455.01(6), F.S.

¹⁶ See Ss. 475.180 and 489.115(1)(c), F.S.

into a reciprocal licensing agreement with other states if the applicable practice act permits such agreement.¹⁷

If a reciprocal licensing agreement exists, or if DBPR or a board has determined another state's licensing requirements or examinations to be substantially equivalent or more stringent to those under the practice act, DBPR or the board must post on its website which jurisdictions have such reciprocal licensing agreements or substantially similar licenses for a license by endorsement.¹⁸

In 2023, 9,706 applications for a license by endorsement were approved, and 12 were denied. In 2022, 11,429 applications for a license by endorsement were approved, and 91 were denied. In 2021, 11,743 applications for a license by endorsement were approved, and 172 were denied.¹⁹

In 2020, an omnibus license deregulation bill²⁰ was enacted, which instituted greater license portability measures for the following DBPR licenses:

- Veterinarians,
- Construction contractors,
- Electrical contractors,
- Landscape architects,
- Geologists,
- Professional engineers,
- Certified public accountants,
- Home inspectors,
- Building code professionals,
- Cosmetologists, and
- Barbers.

Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act, provides uniform procedures for state agencies, including DBPR, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications. Section 120.60, F.S., provides the process for the granting or denial of license applications upon receipt of a license application.

Related to determining if an application is complete:

- An agency must examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require.
- An agency may not deny a license because of an applicant's failure to correct an error or omission or to supply additional information unless the agency has timely notified the applicant within this 30-day period.
- A license application is complete upon receipt by the agency of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired.

Related to approving or denying an application:

- An agency must approve or deny a license application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law.
 - The 90-day time period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57, F.S.²¹

¹⁷ S. 455.213, F.S.

¹⁸ *Id.*

¹⁹ Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Out-of-state applicants (Jan. 11, 2024).

²⁰ Ch. 2020-125, L.O.F.

²¹ S. 120.569 F.S., provides the administrative process for all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under the mediation process in s. 120.573, F.S., or the summary hearing process in s.

- Any application for a license is considered approved unless the agency approves or denies the license within whichever of the following timeframes is latest and applicable:
 - Within 90 day after receipt of a completed application,
 - Within 15 days after conclusion of a public hearing held on the application, or
 - Within 45 days after a recommended order is submitted to the agency and the parties.

An agency is required to give a written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license.

The agency must follow the following process for issuing a notice of denial:²²

- The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act.
- Unless waived by the applicant, a copy of the notice must be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action.
- Each notice must inform the recipient of the basis for the agency decision, and inform the recipient of any administrative or judicial which may be available.
 - The notice must indicate the procedures that must be followed, and state the applicable time limits.
- The issuing agency must certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk.

Effect of the Bill

The bill amends Ch. 455, F.S., and therefore applies to licenses under the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

The bill requires that before a board, or DBPR if there is no board, denies an application for licensure by reciprocity or by endorsement based on a finding that the requirements of the basis license in another jurisdiction are not substantially equivalent or are otherwise insufficient for a license in Florida, it must submit the finding to the Secretary of DBPR for review.

The Secretary may agree with the finding and deny the application for licensure, or disagree with the finding and issue the license. The decision must be entered according to the Secretary's decision.

If the Secretary makes a finding that the requirements of a basis license in another jurisdiction are substantially equivalent to or otherwise sufficient for a license in this state, the board, or the department if there is no board, must make the same finding for similar applicants from the same jurisdiction, unless the requirements of the basis license change.

The bill provides that the term "basis license" means the license or the licensure requirements of another jurisdiction which are used to meet the requirements for a license in Florida.

The bill is effective July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 455.213, F.S.; relating to licensing procedures.
 Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

120.574, F.S. Section 120.57, F.S., provides additional procedures for matters involving disputed issues of material fact before an administrative law judge assigned by the Division of Administrative Hearings.

²² S. 120.60(3), F.S.

1. Revenues:
None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more license out-of-state license applicants to obtain a Florida license to practice their chosen profession.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures 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:

DBPR will need to amend rules relating to procedures for applications for licenses by reciprocity and endorsement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 24, 2024, the Regulatory Reform and Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Made a technical change to terminology.
- Made a grammatical change.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform and Economic Development Subcommittee.

