

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 1330

INTRODUCER: Regulated Industries Committee and Senator Fasano

SUBJECT: Department of Business and Professional Regulation

DATE: March 17, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi and Harrington	Imhof	RI	Fav/CS
2.			BI	
3.			FT	
4.			GA	
5.				
6.				

Please see Section VIII. for Additional Information:

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|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

The committee substitute (CS) amends numerous provisions relating to regulatory activities of the Department of Business and Professional Regulation (department). The CS:

- Amends the department's service of process procedures to provide that the department shall call the licensee's last telephone number of record and publish in a newspaper if service via mail is unsuccessful;
- Provides that ch. 455, F.S., applies only to the regulation of the Division of Professions;
- Creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida;
- Requires that upon a determination by the department that it erroneously issued a license, or upon the revocation of a license, the licensee must surrender his or her license to the department;

- Prohibits an examinee whose examination materials were confiscated based upon suspicion of theft or unlawful reproduction of examination materials from taking another examination until the criminal investigation is concluded;
- Amends various provisions of the home inspection licensing program (scheduled to become effective July 1, 2010), which include amendments to the definition of home inspection services, eliminating the certificate of authorization, authorizing applicants to take the licensure examination without having to obtain department approval, requiring a criminal history check for applicants, delaying the effective date for enforcement provisions, changing the grandfather provision, and providing additional rulemaking authority to the department;
- Amends various provisions of the mold-related services licensure program (scheduled to become effective July 1, 2010), which include amendments eliminating the certificate of authorization, authorizing applicants to take the licensure examination without having to obtain department approval, clarifying that the two-year degree requirement must be an associate of arts degree or equivalent with 30 semester hours in specified courses, delaying the effective date for enforcement provisions, changing the grandfather provision, and providing additional rulemaking authority to the department;
- Expands the exemption from licensure requirements to allow veterinary interns or residents who are graduates in training to be a graduate of a school recognized by the Educational Commission for Foreign Veterinary Graduates;
- Transfers carbon monoxide regulation in public lodging establishments from the Division of Hotels and Restaurants to the State Fire Marshal;
- Revises the qualifications of members of the Florida Real Estate Appraisal Board;
- Allows the Florida State Boxing Commission to issue a notice to cease and desist for unlicensed activity;
- Removes the requirement that cosmetology applicants must take the examination within 6 months after approval to take the examination; and
- Repeals HIV/AIDS educational requirements for funeral directors and embalmers from ch. 455, F.S. This provision is covered in ch. 497, F.S.

The CS provides an effective date of July 1, 2010.

The CS amends the following sections of the Florida Statutes: 20.165, 455.275, 455.017, 455.02, 455.213, 455.217, 455.2175, 455.227, 455.228, 468.8311, 468.8312, 468.8313, 468.8318, 468.8319, 468.832, 468.8324, 468.8412, 468.8413, 468.8414, 468.8418, 468.8419, 468.842, 468.8421, 468.8423, 474.203, 475.175, 475.613, 477.019, 509.211, 554.108, and 561.17.

The CS creates the following sections of the Florida Statutes: 468.8325, 468.8424, and 548.076.

The CS repeals section 455.2226, F.S.

The CS reenacts provisions of the following sections of the Florida Statutes: 468.436, 468.832, 468.842, 471.033, 473.323, 475.25, 475.624, 476.204, 477.029, 481.225, 481.325, and 468.8314.

II. Present Situation:

Department of Business and Professional Regulation

The department was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.¹ The department is created in s. 20.165, F.S. Section 20.165(2), F.S., creates the following eleven divisions within the department:

- Division of Administration.
- Division of Alcoholic Beverages and Tobacco.
- Division of Certified Public Accounting.
- Division of Florida Condominiums, Timeshares, and Mobile Homes.
- Division of Hotels and Restaurants.
- Division of Pari-mutuel Wagering.
- Division of Professions.
- Division of Real Estate.
- Division of Regulation.
- Division of Technology.
- Division of Service Operations.

In addition to administering the professional boards, the department processes applications for licensure and license renewal. The department also receives and investigates complaints made against licensees and, if necessary, brings administrative charges.

Chapter 455, F.S., provides the general powers of the department and sets forth the procedural and administrative frame-work for all of the professional boards housed under the department, specifically the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

Professional Boards

Section 20.165(4)(a), F.S., establishes the following professional boards within the Division of Professions:

- Board of Architecture and Interior Design, created under part I of ch. 481, F.S.
- Florida Board of Auctioneers, created under part VI of ch. 468, F.S.
- Barbers' Board, created under ch. 476, F.S.

¹ Chapter 93-220, L.O.F.

- Florida Building Code Administrators and Inspectors Board, created under part XII of ch. 468, F.S.
- Construction Industry Licensing Board, created under part I of ch. 489, F.S.
- Board of Cosmetology, created under ch. 477, F.S.
- Electrical Contractors' Licensing Board, created under part II of ch. 489, F.S.
- Board of Employee Leasing Companies, created under part XI of ch. 468, F.S.
- Board of Landscape Architecture, created under part II of ch. 481, F.S.
- Board of Pilot Commissioners, created under ch. 310, F.S.
- Board of Professional Engineers, created under ch. 471, F.S.
- Board of Professional Geologists, created under ch. 492, F.S.
- Board of Veterinary Medicine, created under ch. 474, F.S.

Section 20.165(4)(b), F.S., establishes the following board and commission within the Division of Real Estate:

- Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S.
- Florida Real Estate Commission, created under part I of ch. 475, F.S.

Section 20.165(4)(c), F.S., establishes the Board of Accountancy, created under ch. 473, F.S., within the Division of Certified Public Accounting.

The Florida State Boxing Commission,² the Board of Pilot Commissioners,³ the Pilot Rate Review Board⁴ are also housed within the department. The department also has regulatory oversight responsibilities over the following professions:

- Farm labor contractors under part III of ch. 450, F.S.; and
- Talent agencies under part VII of ch. 468.

Section 20.165, F.S., does not include the home inspection and mold-related services licensure programs provided for in parts XV and XVI of ch. 468, F.S.

Service of Process

The department cannot revoke, suspend, annul, or withdraw any license unless the department has first served an administrative complaint (complaint) which affords reasonable notice to the licensee of facts or conduct which warrants the intended action and unless the licensee has been given an adequate opportunity to request an administrative proceeding.⁵ The department must first attempt to serve the complaint by personal service or certified mail. When personal service cannot be made and the certified mail notice is returned undelivered, the agency can serve notice via publication in a newspaper published in the county of the licensee's last known address at it appears in the records of the agency. If the address is in another state, the notice may be published in Leon County. Licensees have a duty to update their address with the department.⁶

²Section 548.003, F.S.

³Chapter 310, F.S.

⁴*Id.*

⁵Section 120.60(5), F.S.

⁶Section 455.275(1), F.S.

Members of the Armed Forces

Section 455.02, F.S., provides that members of the Armed Forces of the United States on active duty, who are in good standing with their professional board, may maintain the good standing without paying dues or fees while on active duty and for a period of six months after discharge from active duty, provided the member is not engaged in his or her profession in the private sector for profit. Spouses of members of the armed forces may also be exempt from renewal provisions provided the spouse is absent from the state because of their spouses' duties with the Armed Forces.⁷

Theft or Reproduction of an Examination

Section 455.2175, F.S., provides that theft or reproduction of an examination administered by the department constitutes a felony of the third degree.⁸ According to the department, the Bureau of Education and Testing works to ensure examination security, including the use of roving proctors during examination administration. On at least three occasions, candidates have been caught illegally copying exam questions. The department refers such cases of copying or reproduction to the appropriate state attorney for prosecution.

Discipline

Among others grounds, being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession constitutes a ground for discipline.⁹

Home Inspectors

In 2007, part XV of ch. 468, F.S., was created to govern home inspectors.¹⁰ A home inspector is any person who provides home inspection services for a fee or compensation.¹¹ "Home inspection services" means a visual examination of one or more of the installed systems and components of a home, such as the structure, electrical system, HVAC, roof, plumbing system, interior or exterior components, or the site conditions for purposes of providing a written professional opinion on the condition of the home.

In order to be licensed as a home inspector, an applicant must take an examination, apply to the department, and pay a license fee.¹² An applicant must be of good moral character and must have completed a course of study of at least 120 hours which covers all of the following components of a home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.¹³ A corporation or

⁷ Section 455.02(2), F.S.

⁸ A third degree felony is punishable by a fine not to exceed \$5,000 and a prison term not to exceed five years. *See*, sections 775.082(3)(d) and 775.083(1)(c), F.S.

⁹ Section 455.227(1)(c), F.S.

¹⁰ Chapter 2007-235, L.O.F.

¹¹ Section 468.8311(3), F.S.

¹² The initial license fee shall not exceed \$200. Section 468.8312(3), F.S.

¹³ Section 468.8313(2), F.S.

partnership may be issued a certificate of authorization to offer home inspection services so long as all personnel of the corporation or partnership are licensed.¹⁴

Section 468.8319, F.S., prohibits an individual from performing home inspections or holding themselves out to be home inspectors without proper licensure and without complying with the home inspector regulations. Although the legislation was passed in 2007, s. 468.8319, F.S., does not take effect until July 1, 2010.¹⁵ The delay in the effective date was intended to give the department time to implement rules and give members in the industry time to apply for and obtain proper licenses.

Section 468.8324, F.S., provides a grandfather clause for persons who perform home inspections. The section states that such a person may qualify to be licensed by the department as a home inspector if the person meets the licensure requirements for a home inspector by July 1, 2010. The licensure requirements require the completion of a course of study, passage of an examination, payment of a license fee, submission of an application, and proof of good moral character. As it is currently written, the grandfather provision does not take into consideration prior experience and education.

Mold-Related Services

Part XVI of ch. 468, F.S., govern mold-related services.¹⁶ Any person who performs mold assessment or mold remediation must be licensed by the department.¹⁷ “Mold Assessment” means a process performed by an assessor which includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate a hypothesis about the origin, identity, location, and extent of mold growth of greater than 10 square feet.¹⁸ “Mold Remediation” means the removal, cleaning, sanitizing, demolition, or other treatment of mold of greater than 10 square feet.¹⁹

An applicant for a mold assessor or mold remediator license must take an examination, apply to the department, and pay license fees.²⁰ The applicant is qualified if the applicant is of good moral character and has satisfied the education requirements. An applicant for a mold remediation license must either have a two-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science and a minimum of one year of documented field experience in a field related to mold remediation or a high school diploma and four years of documented field experience.²¹ An applicant for a mold assessor license must have a two-year degree in the same courses of study and one year of documented field experience in conducting microbial sampling or investigations or a high school diploma and four years of

¹⁴ Sections 468.8318(1) and (2), F.S.

¹⁵ Part XV (home inspectors) and part XVI (mold-related services) of ch. 468, F.S., take effect on July 1, 2010.

¹⁶ See 2007-235, L.O.F.

¹⁷ Section 468.8414(1), F.S.

¹⁸ Section 468.8411(3), F.S.

¹⁹ Section 468.8411(5), F.S.

²⁰ The initial licensure fee shall not exceed \$200. Section 468.8412(3), F.S.

²¹ Section 468.8413(2)(a)1., F.S.

documented filed experience.²² The department may also issue a certificate of authority for a partnership or corporation that offers mold assessment or mold remediation.²³

Section 468.842, F.S., prohibits an individual from performing mold assessment or remediation or holding themselves out to be a mold assessor or remediator without proper licensure and without complying with the mold-related service regulations. Although the legislation was passed in 2007, s. 468.842, F.S., does not take effect until July 1, 2010.²⁴ The delay in the effective date was intended to give the department time to implement rules and give members in the industry time to apply for and obtain proper licenses.

Section 468.8423, F.S., provides a grandfather clause for persons who perform mold-related services. The section states that such a person may qualify to be licensed by the department as a mold assessor or mold remediator if the person meets the licensure requirements for a mold assessor or mold remediator by July 1, 2010. The licensure requirements require the completion of a specific education requirements, passage of an examination, payment of a license fee, submission of an application, and proof of good moral character. As it is currently written, the grandfather provision does not take into consideration prior experience and education.

Cosmetology

The Board of Cosmetology (board) within the department is charged with the regulation of cosmetology under ch. 477, F.S. Section 477.014, F.S., provides that no person other than a duly licensed cosmetologist shall practice cosmetology or use the name or title of a cosmetologist. Section 477.013, F.S., defines “cosmetology” as:

the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Section 477.019, F.S., requires that an applicant for licensure as a cosmetologist must be at least 16 years of age or have received a high school diploma, and must pay the required application fee. An applicant for licensure as a cosmetologist must satisfy an experience requirement or education requirement. The experience requirement consists of being authorized to practice cosmetology in another state or country for at least a year. The education requirement consists of a minimum of 1,200 hours of training from a school of cosmetology licensed pursuant to ch. 1005, F.S., a cosmetology program within the public school system, the Cosmetology Division of the Florida School for the Deaf and the Blind, or a government-operated cosmetology program in this state.

Section 477.019, F.S., permits applicants for licensure as a cosmetologist to apply to take the license examination in the last 100 hours of their required 1,200 hours of course work. The

²² Section 468.8413(2)(b)1., F.S.

²³ Section 468.8418(1), F.S.

²⁴ *Supra* at n. 15.

applicant must take the examination within 6 months of the approval of the application to sit for the examination. According to the department, this provision, which was enacted in 2008,²⁵ was intended to streamline the application processes, but has had the opposite effect because the department must review the candidate's information twice – once when they apply to sit for the examination and again to verify completion of 1,200 hours prior to issuing the license.

Carbon Monoxide Detectors

Carbon monoxide (CO), often called the silent killer, is an invisible, odorless, colorless gas created when fuels (such as gasoline, wood, coal, natural gas, propane, oil, and methane) burn incompletely. In the home, heating and cooking equipment that burn fuel are potential sources of CO. Vehicles or generators running in an attached garage can also produce dangerous levels of CO.

According to the National Safety Council, carbon monoxide exposure at low concentrations may result in fatigue in healthy people and chest pain in people with heart disease. At higher concentrations, carbon monoxide may cause impaired vision and coordination, headaches, dizziness, confusion, and nausea. It can cause flu-like symptoms that clear up after the person is no longer exposed to the source of the carbon monoxide. Carbon monoxide can be fatal at very high concentrations.²⁶

Section 509.211(4), F.S., requires public lodging establishments to equip every enclosed space or room, which contains a boiler that is located in any portion of the establishment that also contains sleeping rooms, with one or more carbon monoxide (CO) sensor devices. It also requires the Division of Hotels and Restaurants within DBPR to determine whether CO hazards exist within enclosures.

The provision in Section 509.211(4), F.S., is named “Janelle’s Law” in memory of a Janelle Bertot and Anthony Perez who died from carbon monoxide poisoning.²⁷ Janelle Bertot and Anthony Perez were students at Florida International University when they died on November 14, 2004, from CO poisoning as a result of CO that leaked from their motor vehicle. Janelle’s family and friends have established a charitable foundation in her name which seeks to raise the awareness of young people and the general public about the dangers of CO poisoning. The act also honors the memory of Tom Lueders, who died from carbon monoxide poisoning on December 27, 2006.²⁸

Section 553.885(1), F.S., requires that every building that has a fossil-fuel-burning heater or appliance, a fireplace, or an attached garage for which a building permit is issued for new construction on or after July 1, 2008, must have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes. The Florida Building Commission is required to administer this provision and to incorporate these requirements into

²⁵ Chapter 2008-240, L.O.F.

²⁶ See National Fire Protection Association at:

<http://www.nfpa.org/itemDetail.asp?categoryID=1733&itemID=41644&URL=Safety%20Information/For%20consumers/Carbon%20monoxide/Symptoms%20of%20CO%20poisoning> (Last visited February 26, 2010).

²⁷ See 2007-181, L.O.F.

²⁸ *Id.*

the Florida Building Code. If the building is a new hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, the approved, operational carbon monoxide detector must be installed inside or directly outside of each room or area within the hospital or facility where a fossil-fuel-burning heater, engine, or appliance is located. The detector must be connected to the fire alarm system of the hospital or facility as a supervisory signal.

The carbon monoxide detector requirement in s. 553.885(1), F.S., does not apply to existing buildings.

Public Lodging Establishments

The Department of Business and Professional Regulation is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 37,898 licensed public lodging establishments.²⁹

Boiler Safety

Section 554.103, F.S., requires the Department of Financial Services (DFS) to adopt by rule a State Boiler Code for the safe construction, installation, inspection, maintenance, and repair of boilers in this state.³⁰ The state boiler inspection program is administered by the chief inspector, who is appointed by the Chief Financial Officer. The department must also employ deputy inspectors who must each hold a certificate of competency from the DFS.

Section 554.108(8), F.S., requires that only boilers that are located in public assembly locations must be inspected. An annual inspection and certification is required for power boilers and high pressure, high temperature water boilers. Low pressure steam or vapor heating boilers must receive a certificate inspection every two years. Hot water heating boilers and hot water supply boilers must also receive a certificate inspection every two years, and must receive a receive an internal inspection every 4 years if the construction of the boiler permits such an inspection.

Boxing

The Florida State Boxing Commission (commission) within the department is the agency responsible for the enforcement of ch. 548, F.S., relating to the regulation of pugilistic exhibitions. Section 548.001, F.S., provides that the provisions constituting ch. 548, F.S., shall be known and may be cited as the "Joe Lang Kershaw Act."³¹ The commission consists of five members who are appointed by the Governor subject to Senate confirmation.

²⁹ For FY 2008-2009 there were 37,898 licensed public lodging establishments. *Annual Report, Fiscal Year 2008-2009*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2008_09.pdf (Last visited March 1, 2010).

³⁰ Rule 69A-51.010, F.A.C.

³¹ In 1968, Joe Lang Kershaw became the first African-American elected to the Florida Legislature in the 20th Century.

Section 548.006(1), F.S., grants the commission exclusive jurisdiction over every match held within the state which involves a professional, including boxing, kickboxing, and mixed martial arts. The commission has exclusive jurisdiction of all amateur sanctioning organizations of amateur boxing and kickboxing matches. Section 548.006(4), F.S., also provides that professional and amateur matches shall be held in accordance with ch. 548, F.S., and the rules adopted by the commission.

Section 548.003(2)(k), F.S., authorizes the commission to adopt safety standards for those who are competing and for those who attend these type of events. Section 548.0065(3), F.S., provides for periodic compliance checks by the commission to ensure enforcement of approved health and safety standards and supervision of matches by approved amateur sanctioning organizations.

Section 548.0065(4), F.S., provides that any member of the commission may suspend the approval of a sanctioning organization for failure to supervise the amateur matches or to enforce the approved health and safety standards. The suspension must comply with the suspension procedures in s. 120.60(6), F.S. The commission must hold a hearing within 10 days after the date on which the approval is suspended. Any member of the commission, or commission representative, may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety standards required by rule as required by ch. 548, F.S. It provides that law enforcement personnel may assist any member of the commission, or commission representative, to enforce the order to stop the match.

The commission does not have the statutory authority to issue a notice to cease and desist to persons violating any provision of ch. 548, F.S.³² According to the department, organized unsanctioned (unlicensed) boxing, kickboxing, and mixed martial arts events are currently taking place in Florida, and unsanctioned events are dangerous and may cause injury. According to the department, health and safety standards in rule 61K1-1, F.A.C., which require emergency medical personnel or ambulance service, are not followed at unsanctioned events for participants who may be injured, and death may occur from injuries obtained during competition if medical personnel services are not available.

Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the department is the agency authorized to enforce the provisions of the Beverage Law in chs. 561, 562, 563, 564, 565, 567, and 568, F.S.³³ The Beverage Law regulates the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.³⁴

Section 561.17(1), F.S., requires persons to apply for an alcoholic beverage license before manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages. The alcoholic beverage license application must be a sworn application in duplicate on forms provided by the division. According to the department, the division recently implemented the document management system “OnBase.” This system provides an electronic and official copy

³² The department can issue a cease and desist only for activities that fall within the Division of Professions; boxing is not regulated by ch. 455, F.S.

³³ See s. 561.01(6), F.S.

³⁴ See s. 561.14, F.S.

of the application and all associated materials. According to the department, the electronic version eliminates the need for the applicant to submit the application in duplicate.

III. Effect of Proposed Changes:

Department of Business and Professional Regulation

Section 1. Amends subsection (4) of s. 20.165, F.S., to add home inspector and mold-related service licensing programs to the list of boards or professions established within the Division of Professions for the department.

Section 2. Amends s. 455.275, F.S., by creating a new subsection (3). Subsection (3) provides procedures for service of process of administrative complaints. The CS provides that the department shall provide service via regular mail to the licensee's last known address of record. If service cannot be achieved by mail, the department shall call the last telephone number of record and cause a short, plain notice to the licensee to be published once each week for four consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If there is no county newspaper, then the complaint may be published in a newspaper of general circulation in that county. If the address is in another state or foreign territory or county, the complaint may be published in Leon County. The procedures do not require the department to attempt service by personal service.

Section 3. Amends s. 455.017, F.S., to provide that ch. 455, F.S., applies only to the regulation by the Division of Professions.

Section 4. Amends s. 455.02, F.S., by creating a new subsection (3). Subsection (3) provides that spouses of members of Armed Forces may be issued a temporary professional license if the spouse submits an application to the department establishing that the servicemember spouse has been assigned to a duty station in Florida, proof of marriage to the servicemember, and proof that the spouse holds a similar license in another state or country and is in good standing. The spouse must also submit a completed set of fingerprints in the manner required by the department. The temporary license expires six months after it has been issued and is not renewable.

Section 5. Amends s. 455.213, F.S., to require a licensee to surrender his or her license to the department if the applicable board, or the department when there is no board, revokes the license or determines that the license was issued in error.

Section 6. Amends s. 455.217, F.S., to provide that the Division of Professions shall provide the services related to examinations for the department and not the Division of Service Operations. The section also provides that the department shall provide procedures for applicants that have taken and failed an examination and amends the section to provide that the procedures apply to the last examination taken by the applicant.

Section 7. Amends s. 455.2175, F.S., to provide that an examinee whose examination materials have been confiscated upon suspicion of a violation of this section may not participate in another examination until the criminal investigation or prosecution is resolved.

Section 8. The CS repeals s. 455.2226, F.S., relating to human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) instruction for funeral directors and embalmers as part of their biennial relicensure or recertification. Under current law, HIV and AIDS instruction for funeral directors and embalmers, who are regulated by the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services, are required by s. 497.367, F.S., to complete HIV and AIDS instruction as part of their continuing education prerequisite before every third biennial licensure renewal.

Section 9. Amends s. 455.227, F.S., to provide that entering a plea of guilty to a crime which relates to the practice of the profession is grounds for discipline of the licensee.

Section 10. Amends s. 455.228, F.S., changing the term cease and desist “order” to cease and desist “notice” to conform to other terminology in the section.

Home Inspection Services

Section 11. Amends s. 468.8311, F.S., to change the definition of “home inspection services” from the visual examination of one or more systems or components to a visual inspection of all of the following systems and components of a home, including the structure, electrical system, HVAC system, roof, plumbing system, interior components, exterior components, and site conditions.

Section 12. Amends s. 468.8312, F.S., to delete the fee for a certificate of authorization for home inspection services.

Section 13. Provides that an applicant must satisfy the examination requirements before he or she applies for licensure as a home inspector. It creates a new subsection (6) in s. 468.8313, F.S., to require an applicant for a home inspector license to submit a complete set of electronic fingerprints. The fingerprints shall be submitted to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for a background check.

Section 14. Deletes the requirement of a certificate of authorization for home inspection services.

Section 15. Amends the effective date for paragraphs (a) and (b) of subsection (1) of s. 468.8319, F.S., to July 1, 2011. This provides time to meet the home inspector licensure requirements of part XV of ch. 468, F.S.

Section 16. Amends s. 468.8319, F.S., to provide that a person may not inspect a property in which the inspector has any financial interest or perform or offer to perform any repairs to a home in which the inspector’s company has prepared the inspection report, regardless of whether a fee was collected. The CS clarifies that the specified prohibitions and penalties apply to any person who commits a violation.

Section 17. Amends s. 468.832, F.S., to include failing to meet any standard of practice adopted by the rule of the department as a ground for discipline.

Section 18. Amends the grandfather provision for home inspectors. The new grandfather provision requires an applicant to submit an applicant to the department no later than March 1, 2011 and submit proof that the applicant has been certified as a home inspector by a state or national association and has completed at least 14 hours of education on home inspection or has three years experience as a home inspector, has completed 14 hours of training. To establish proof of experience, the applicant must submit 120 home inspection reports. The applicant for the grandfather provision must not have had a license in a related field revoked, suspended, or a fine assessed of over \$500 within 5 years following the date of application. The applicant must also submit to a background check, be of good moral character, and have the required general liability insurance.

Section 19. Creates s. 468.8325, F.S., to give the department rulemaking authority to administer the home inspector provisions.

Mold-Related Services

Section 20. Deletes the requirement for a certificate of authorization fee for mold-related services.

Section 21. Amends s. 468.8413, F.S., to provide that an applicant for a mold assessor or mold remediator shall apply to the department for licensure after the applicant has satisfied the examination. The section clarifies that the applicant for mold remediation or mold assessor must have an associate of arts degree or an equivalent degree and the applicant must have completed at least 30 semester hours in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science and one year of field related experience or the applicant must have a high school diploma and four years of experience.

Section 22. Amends s. 468.8414, F.S., to provide that the department must require an applicant for license by endorsement to possess the required liability insurance.

Section 23. Amends . 468.8418, F.S., to delete the provisions requiring a certificate of authorization for mold-related services.

Section 24. Amends s. 468.8419, F.S., to provide that the specified prohibitions and penalties apply to any person who commits a violation.

Section 25. Provides that paragraphs (a) and (b) of subsection (1) of s. 468.8419, F.S., shall take effect on July 1, 2011. This provides time to meet the mold-related licensure requirements of part XVI of ch. 468, F.S.

Section 26. Amends s. 468.842, F.S., to provide that failing to meet a standard of practice adopted by rule of the department constitutes a ground for discipline.

Section 27. Amends s. 468.8421, F.S., to provide that the insurance requirement for mold assessors must cover preliminary and post-remediation activities.

Section 28. Amends the grandfather provision for mold-related services. The new grandfather provision requires an applicant to submit an applicant to the department no later than March 1, 2011 and submit proof that the applicant has been certified as a mold assessor or mold remediator by a state or national association and has completed at least 60 hours of education for an assessor and 30 hours of education for a remediator or has three years experience as a mold assessor or mold remediator. To establish proof of experience, the applicant must submit 40 invoices for mold assessments or mold remediations. The applicant for the grandfather provision must not have had a license in a related field revoked, suspended, or a fine assessed of over \$500 within 5 years following the date of application. The applicant must also submit to a background check, be of good moral character, and have the required general liability insurance.

Section 29. Creates s. 468.8424, F.S., to give the department rulemaking authority to administer the mold-related service provisions.

Veterinary Medicine

Section 30. Amends s. 474.203, F.S., which provides exemptions to the practice of veterinary medicine provisions in this chapter. The CS revises the exemption for veterinary medicine interns and resident veterinarians who do not hold a valid license under ch. 474, F.S. Current law requires that a intern or resident veterinarian must be a graduate of a school or college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education. The CS would permit interns and resident veterinarian who graduate from a school or college recognized by the American Veterinary Medical Association Commission for Foreign Veterinary Graduates to also qualify for the exemption.

Real Estate Professionals

Section 31. Amends s. 475.175(1)(a), F.S., which relates to the regulation of real estate brokers and sales associates by the Florida Real Estate Commission, to require that applicants for licensure must submit digital fingerprints to determine if the applicant has a criminal history. The CS deletes the requirement that a fingerprint card must be submitted.

Section 32. Amends s. 475.613(1), F.S., which establishes the membership of the seven-member Real Estate Appraisal Board and requires that two members of the board must be representatives of the general public and not connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The CS would allow members of the general public who are connected in any way to the practice of real estate brokerage or mortgage lending to serve on the board.

Cosmetologists

Section 33. Deletes subsection (3) of s. 477.019, F.S., which permits applicants for licensure as a cosmetologist to apply to take the license examination in the last 100 hours of their required 1,200 hours of course work in a licensed cosmetology school or program. The provision deleted by the CS also requires that applicant take the examination within 6 months of the approval of the application.

Public Lodging Establishments – Carbon Monoxide Detectors

Section 34. Repeals subsection (4) of s. 509.211, F.S., to delete the requirement that public lodging establishments must equip every enclosed space or room, which contains a boiler that is located in any portion of the establishment that also contains sleeping rooms, with one or more carbon monoxide sensor devices, and that requires the Division of Hotels and Restaurants to determine whether CO hazards exist within enclosures. This responsibility is transferred to the Department of Financial Services (DFS) in section 36 of the CS.

Florida State Boxing Commission

Section 35. Creates s. 548.076, F.S., to provide that the department may issue a notice to cease and desist pursuant to s. 455.228, F.S., when the department has probable cause to believe that any person not licensed by the commission has violated any provision of ch. 548, F.S.

Public Lodging Establishments – Carbon Monoxide Detectors

Section 36. Creates subsection (4) of s. 554.108, F.S., to provide carbon monoxide detection requirements that are substantively identical to those in s. 509.211(4), F.S. However, the CS gives the enforcement responsibility for the inspection of carbon monoxide detectors to the boiler safety program within the DFS. The installation or determination of whether carbon monoxide hazards have been adequately mitigated must be made in accordance with rules adopted by the DFS. The boiler inspector must also determine whether the location containing the boiler contains the required carbon monoxide detectors.

Alcoholic Beverage Regulation

Section 37. Amends subsection (1) of s. 561.17, F.S., relating to the application requirement for a license to manufacture, bottle, distribute, sell, or in any way deal in alcoholic beverages, to delete the requirement that the application must be filed in duplicate.

The CS also amends s. 561.17(1), F.S., to conform the language in this subsection to the current CS drafting conventions.

Other Provisions

Section 38 - 49. Reenacts paragraph (a) of subsection (2) of s. 468.436, subsection (1) of s. 468.832, subsection (1) of s. 468.842, subsection (1) of s. 471.033, paragraph (a) of subsection (1) of s. 473.323, paragraph (a) of subsection (1) of s. 475.25, subsection (1) of s. 475.624, paragraph (h) of subsection (1) of s. 476.204, paragraph (h) of subsection (1) of s. 477.029, paragraph (a) of subsection (1) of s. 481.225, paragraph (a) of subsection (1) of s. 481.325, and subsection (2) of s. 468.8314, F.S., to incorporate amendments made to s. 455.227, F.S.

Section 50. Provides an effective date of July 1, 2010.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The CS amends the grandfather provisions for home inspectors and mold-related services. The changes allow the department to consider prior experience and education and to license individuals who have been operating in these professions, thus allowing these individuals to continue in their profession. The CS also delays the effective date for enforcement provisions, giving the department more time to implement rules and procedures and to give individuals already engaged in the profession ample time to comply with those procedures.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Sections 468.8318 and 468.8418, F.S., contain the title of “Certification of corporations and partnership” even though the CS removes the certification requirement for these entities.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on March 17, 2010:

The CS makes some technical changes. First, it clarifies that the complaint is served on the licensee and not the notice. Second, it repeals s. 455.2226, F.S., because the regulation of funeral directors and embalmers is not longer housed under the department. Third, the CS clarifies that the home inspector and mold-related service prohibitions apply to any person who commits a specified violation, removing the language that referenced a company or mold-assessor or home inspector.

The CS amends the service of process procedures for the department. The CS requires the department to first attempt to serve the complaint on the licensee at his or her last known address of record. If service cannot be completed via mail, then the department must call the last telephone number of record and cause a short, plain notice to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If there is no county newspaper, then the complaint may be published in a newspaper of general circulation.

The CS deletes section 38 of the bill, which created a special liquor license for movie theatres.

- B. **Amendments:**

None.