



Commerce Committee

Wednesday, March 29, 2017

8:30 AM

Webster Hall (212 Knott)

MEETING PACKET



The Florida House of Representatives

Commerce Committee

Richard Corcoran
Speaker

Jose Diaz
Chair

AGENDA

March 29, 2017

8:30 AM – 11:00 AM

Webster Hall (212 Knott)

- I. Call to Order and Roll Call
- II. Consideration of the following bill(s):
 - a. CS/HB 421 Public Housing Authority Insurance by Insurance & Banking Subcommittee, Shaw
 - b. CS/HB 467 Department of Agriculture & Consumer Services by Agriculture & Property Rights Subcommittee, Raburn
 - c. CS/HB 585 Applications for Authority to Organize a Bank or Trust Company by Insurance & Banking Subcommittee, McClain
 - d. HB 741 Department of Business and Professional Regulation Fees by Trumbull
 - e. HB 1233 Cottage Food Operations by White, Ahern
 - f. CS/HB 1347 Application of the Florida Deceptive and Unfair Trade Practices Act to Credit Unions by Insurance & Banking Subcommittee, Jones
- III. Adjournment

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 3/28/2017 5:15:27PM)

Amended(1)

Commerce Committee

Start Date and Time: Wednesday, March 29, 2017 08:30 am
End Date and Time: Wednesday, March 29, 2017 11:00 am
Location: Webster Hall (212 Knott)
Duration: 2.50 hrs

Consideration of the following bill(s):

CS/HB 421 Public Housing Authority Insurance by Insurance & Banking Subcommittee, Shaw
CS/HB 467 Department of Agriculture & Consumer Services by Agriculture & Property Rights Subcommittee, Raburn
CS/HB 585 Applications for Authority to Organize a Bank or Trust Company by Insurance & Banking Subcommittee, McClain
HB 741 Department of Business and Professional Regulation Fees by Trumbull
HB 1233 Cottage Food Operations by White, Ahern
CS/HB 1347 Application of the Florida Deceptive and Unfair Trade Practices Act to Credit Unions by Insurance & Banking Subcommittee, Jones

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, March 28, 2017.

By request of Chair Diaz, J., all Commerce Committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, March 28, 2017.

NOTICE FINALIZED on 03/28/2017 5:15PM by McCloskey.Michele

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 421 Public Housing Authority Insurance
SPONSOR(S): Insurance & Banking Subcommittee; Shaw
TIED BILLS: IDEN./SIM. BILLS: SB 850

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N, As CS	Lloyd	Luczynski
2) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Banner	Miller
3) Commerce Committee		Lloyd <i>B...</i>	Hamon <i>K. Witt.</i>

SUMMARY ANALYSIS

The Legislature has authorized the creation and operation of public housing authorities due to a shortage of safe or sanitary dwelling accommodations available at rents that low income persons can afford. To provide such accommodations, public housing authorities may acquire property to be used for, or in connection with, housing projects. Among other powers, public housing authorities are authorized to organize and create for-profit corporations, not-for-profit corporations, limited liability companies, and other similar business entities in order to acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects.

As an alternative to obtaining insurance from a licensed insurance company, state law allows certain persons to form a self-insurance fund. Public housing authority self-insurance funds are among the types of self-insurance funds specifically authorized by state law.

The bill authorizes a for-profit corporation, not-for-profit corporation, limited liability company, or other similar business entity that a public housing authority owns, in whole or in part, or participates in the governance thereof to join the same self-insurance fund as the authority that owns or governs them. The bill also authorizes these entities when self-insured to purchase reinsurance, as if they were an insurer.

The bill has no fiscal impact on state or local government.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Public Housing Authorities

Florida's role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities). Section 421.02, F.S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents that persons of low income can afford. To provide such accommodations, housing authorities may acquire property to be used for, or in connection with, housing projects. Public money may only be spent to acquire private property for exclusively public uses and purposes, and the purposes must be determined to be governmental functions of public concern.

Florida law provides for the creation of special district,¹ city, county, and regional housing authorities. Of the 102 Florida public housing authorities identified in the Florida Housing Data Clearinghouse,² 89 are special districts.³ The determination of the need for a city or county housing authority may be made by the governing body of the city or county or upon the filing of a petition signed by 25 residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of a city housing authority.⁴ The Governor appoints commissioners of county and regional housing authorities.⁵ A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.⁶ The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners.⁷

Among other things, housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.
- Organize and create for-profit corporations, not-for-profit corporations, limited liability companies, and other similar business entities in order to acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects.⁸

¹ “Special district” means a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.” s. 189.012, F.S. A housing authority created by a city may be a “dependent special district.” s. 189.012(2), F.S. County and regional housing authorities may be an “independent special district.” s. 189.012(3), F.S.

² FLORIDA HOUSING DATA CLEARING HOUSE, *Public Housing – Agency: Result*, http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1 (last visited Mar. 3, 2017).

³ FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, *Official List of Special Districts Online*, <https://dca.deo.myflorida.com/fhed/sdip/OfficialListdeo/websitelist.cfm> (last visited Mar. 3, 2017).

⁴ At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy. s. 421.05(1), F.S.

⁵ ss. 421.27 and 421.30, F.S.

⁶ s. 421.28, F.S.

⁷ s. 421.06, F.S.

⁸ s. 421.08(8), F.S.

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the federal government for housing projects. This section also allows a housing authority to take over, lease, or manage any federally constructed or owned housing project or undertaking. In addition, an authority is authorized to do any and all things necessary or desirable to secure the aid or cooperation of the federal government for any housing project by the housing authority. Because the federal government has exhibited an interest in shifting more resources from ownership of public housing projects to offering tenants assistance with their rental costs through the Rental Assistance Demonstration, it is anticipated that public housing authorities will organize business entities to facilitate local ownership of public housing projects.⁹

Public Housing Authority Self-Insurance Funds

As an alternative to obtaining insurance from a licensed insurance company, state law allows certain persons to form and obtain insurance coverage from a self-insurance fund. In general, the members of a self-insurance fund assume the risk of loss among themselves, rather than transferring the risk to an insurance company.¹⁰ Various types of self-insurance funds may be established, with varying degrees of state regulation. For certain self-insurance funds, the law requires approval and licensure by the Office of Insurance Regulation (OIR), subject to regulatory requirements that are less restrictive than those for insurance companies, but are intended to provide adequate protections against insolvency and unfair trade practices. For other funds, however, there is little or no regulatory oversight by OIR if certain criteria are met.

Types of self-insurance funds allowed by law include:

- Commercial self-insurance funds,¹¹
- Group self-insurance funds,¹²
- Local government self-insurance funds,¹³
- Self-insured public utilities,¹⁴
- Public housing authorities self-insurance funds,¹⁵
- Independent educational institution self-insurance funds,¹⁶
- Corporation not for profit self-insurance funds,¹⁷
- Electric cooperative self-insurance fund,¹⁸ and
- Hospital alliances.¹⁹

Any two or more public housing authorities may form a self-insurance fund, if the fund:

- Has annual premiums over \$5,000,000,
- Uses a qualified actuary who:
 - Develops actuarially sound rates, and
 - Certifies to OIR annually that the rates are not excessive, inadequate, or unfairly discriminatory,
- Establishes a reserve for losses and loss adjustment expenses that the qualified actuary determines are adequate²⁰ and so certifies to OIR annually,

⁹ The Rental Assistance Demonstration is authorized through the Consolidated and Further continuing Appropriations Act, 2012, Pub. L. No. 112-55, H.R. 2112, 112th Cong. (Nov. 18, 2011).

¹⁰ INSURANCE INFORMATION INSTITUTE, Glossary, <http://www.iii.org/services/glossary/s> (last visited on Mar. 3, 2017).

¹¹ s. 624.462, F.S.

¹² s. 624.4621, F.S.

¹³ s. 624.4622, F.S.

¹⁴ s. 624.46225, F.S.

¹⁵ s. 624.46226, F.S. Public housing authority self-insurance funds pool and spread liabilities of its members for any one or combination of casualty risk or real or personal property risk of every kind and every interest in their property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage. s. 624.46226(1), F.S.

¹⁶ s. 624.4623, F.S.

¹⁷ s. 624.4625, F.S.

¹⁸ s. 624.4626, F.S.

¹⁹ s. 395.106, F.S.

- Maintains an excess insurance and reserve evaluation program, which:
 - Obtains excess insurance from an admitted insurer or a surplus lines insurer, and
 - Has no more than \$350,000, per loss, in retained risk.
- Annually submits audited financial statements to OIR, which are audited by an independent certified public accountant within six months of the end of the fiscal year,
- Is governed by a body of public housing authority commissioners,²¹
- Is administered by licensed knowledgeable²² people or business entities with required experience,²³
- Provides OIR with copies of its member contracts,²⁴ and
- Annually files a board certification to OIR that the requirements of s. 624.46226, F.S., are being met.

If the self-insurance fund meets these requirements, then they are not considered insurers for purposes of the insurance guaranty associations or subject to the provision of the group self-insurance fund law²⁵ and are relieved of any workers' compensation reporting requirement that is unique to group self-insurance funds. Public housing authority self-insurance funds that fail to meet the stated requirements must operate under the more extensive regulations of the Commercial Self-Insurance Fund Act.²⁶

Other benefits of operating as a public housing authority self-insurance fund include:

- Reduced premium taxes.²⁷
- Exemption from the:
 - Florida Hurricane Catastrophe Fund assessment,
 - Various insurance risk apportionment plans, which include those of the windstorm pool, Citizens Property Insurance Corporations, and medical malpractice, and
 - Florida Insurance Guaranty Association assessment.
- Authority to purchase reinsurance.

The Florida Public Housing Authority Self Insurance Fund²⁸ (FPHASIF) is the only self-insurance fund operating under s. 624.46226, F.S.²⁹ A representative of the FPHASIF reports that 22 public housing authorities participate in the fund.

Effect of the Bill

The bill authorizes a for-profit corporation, not-for-profit corporation, limited liability company, or other similar business entity that a public housing authority owns, in whole or in part, or participates in the governance thereof to join the same self-insurance fund as the authority that owns or governs them. The bill also authorizes these entities when self-insured to purchase reinsurance, as if they were an insurer, in the same manner as self-insured public housing authorities.

²⁰ If the qualified actuary determines that the reserve is not adequate, the fund must file a remedial plan with OIR for increasing the reserve and addressing the financial condition of the fund. OIR must determine that an imperiled fund under the remedial plan the fund will operate on an actuarially sound basis and there is no significant risk of insolvency. s. 624.46226(1)(c), F.S.

²¹ The member commissioners must be exclusively from public housing authorities participating in the self-insurance fund.

²² The administrator must have knowledge of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal issues related to insurance.

²³ They must have 5 years' experience in managing commercial self-insurance funds, local government self-insurance funds, or Florida insurers.

²⁴ The member contracts must clearly establish the liability of each member for the obligations of the fund.

²⁵ s. 624.4621, F.S.

²⁶ The Commercial Self-Insurance Fund Act is s. 624.460, F.S., through s. 624.488, F.S.

²⁷ They pay 1.6 percent of gross premiums, contributions, and assessments, rather than 1.75 percent of gross receipts on policies.

²⁸ FLORIDA PUBLIC HOUSING AUTHORITY SELF INSURANCE FUND, <http://www.fphasif.com/> (last visited Mar. 3, 2017).

²⁹ FLORIDA OFFICE OF INSURANCE REGULATION, *Active Company Search*, <http://www.flour.com/CompanySearch/>, select "Public Housing Authority Self-Insurance Funds" under "Company Type" (last visited Mar. 3, 2017).

B. SECTION DIRECTORY:

Section 1. Amends s. 624.46226, F.S., relating to public housing authorities self-insurance funds; exemption for taxation and assessments.

Section 2. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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:

None.

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:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably with a committee substitute. The amendment clarifies that an entity that was organized and created by a public housing authority may only join the same self-insurance fund as the one in which their organizer participates. It also provides for the treatment of reinsurance purchased by and sold to these entities in the same manner as current law treats reinsurance purchased by and sold to public housing authorities.

The staff analysis has been updated to reflect the committee substitute.

1 A bill to be entitled
2 An act relating to public housing authority insurance;
3 amending s. 624.46226, F.S.; authorizing a legal
4 entity in which a public housing authority holds an
5 ownership interest or participates in its governance
6 to participate in the public housing authority's self-
7 insurance fund; authorizing reinsurance companies to
8 issue coverage directly to certain entities organized
9 by a public housing authority under certain
10 circumstances; specifying that such entities are
11 considered insurers under certain circumstances;
12 requiring that reinsurance contracts issued to such
13 entities receive the same tax treatment as contracts
14 issued to insurance companies; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (1) and (7) of section 624.46226,
20 Florida Statutes, are amended to read:

21 624.46226 Public housing authorities self-insurance funds;
22 exemption for taxation and assessments.—

23 (1) Notwithstanding any other provision of law, any two or
24 more public housing authorities in the state as defined in
25 chapter 421 may form a self-insurance fund for the purpose of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 pooling and spreading liabilities of its members as to any one
 27 or combination of casualty risk or real or personal property
 28 risk of every kind and every interest in such property against
 29 loss or damage from any hazard or cause and against any loss
 30 consequential to such loss or damage, provided the self-
 31 insurance fund that is created:

32 (a) Has annual normal premiums in excess of \$5 million.

33 (b) Uses a qualified actuary to determine rates using
 34 accepted actuarial principles and annually submits to the office
 35 a certification by the actuary that the rates are actuarially
 36 sound and are not inadequate, as defined in s. 627.062.

37 (c) Uses a qualified actuary to establish reserves for
 38 loss and loss adjustment expenses and annually submits to the
 39 office a certification by the actuary that the loss and loss
 40 adjustment expense reserves are adequate. If the actuary
 41 determines that reserves are not adequate, the fund shall file
 42 with the office a remedial plan for increasing the reserves or
 43 otherwise addressing the financial condition of the fund,
 44 subject to a determination by the office that the fund will
 45 operate on an actuarially sound basis and the fund does not pose
 46 a significant risk of insolvency.

47 (d) Maintains a continuing program of excess insurance
 48 coverage and reserve evaluation to protect the financial
 49 stability of the fund in an amount and manner determined by a
 50 qualified and independent actuary. At a minimum, this program

51 | must:

52 | 1. Purchase excess insurance from authorized insurance
53 | carriers or eligible surplus lines insurers.

54 | 2. Retain a per-loss occurrence that does not exceed
55 | \$350,000.

56 | (e) Submits to the office annually an audited fiscal year-
57 | end financial statement by an independent certified public
58 | accountant within 6 months after the end of the fiscal year.

59 | (f) Has a governing body which is comprised entirely of
60 | commissioners of public housing authorities that are members of
61 | the public housing authority self-insurance fund or persons
62 | appointed by the commissioners of public housing authorities
63 | that are members of the public housing authority self-insurance
64 | fund.

65 | (g) Uses knowledgeable persons or business entities to
66 | administer or service the fund in the areas of claims
67 | administration, claims adjusting, underwriting, risk management,
68 | loss control, policy administration, financial audit, and legal
69 | areas. Such persons must meet all applicable requirements of law
70 | for state licensure and must have at least 5 years' experience
71 | with commercial self-insurance funds formed under s. 624.462,
72 | self-insurance funds formed under s. 624.4622, or domestic
73 | insurers.

74 | (h) Submits to the office copies of contracts used for its
75 | members that clearly establish the liability of each member for

76 | the obligations of the fund.

77 | (i) Annually submits to the office a certification by the
78 | governing body of the fund that, to the best of its knowledge,
79 | the requirements of this section are met.

80 |
81 | A for-profit or not-for-profit corporation, limited liability
82 | company, or other similar business entity in which a public
83 | housing authority holds an ownership interest or participates in
84 | its governance under s. 421.08(8) may join a self-insurance fund
85 | formed under this section in which such public housing authority
86 | participates.

87 | (7) Reinsurance companies complying with s. 624.610 may
88 | issue coverage directly to a public housing authority or an
89 | entity organized by a public housing authority under s.
90 | 421.08(8) self-insuring its liabilities under this section. A
91 | public housing authority or an entity organized by a public
92 | housing authority under s. 421.08(8) purchasing reinsurance
93 | shall be considered an insurer for the sole purpose of entering
94 | into such reinsurance contracts. Contracts of reinsurance issued
95 | to public housing authorities or entities organized by public
96 | housing authorities under s. 421.08(8) self-insuring under this
97 | section shall receive the same tax treatment as reinsurance
98 | contracts issued to insurance companies. However, the purchase
99 | of reinsurance coverage by a public housing authority or an
100 | entity organized by a public housing authority under s.

CS/HB 421

2017

101 | 421.08(8) self-insuring under this section shall not be
102 | construed as authorization to otherwise act as an insurer.
103 | Section 2. This act shall take effect July 1, 2017.

COMMERCE COMMITTEE

**CS/HB 421 by Rep. Shaw
Public Housing Authority Insurance**

**AMENDMENT SUMMARY
March 29, 2017**

Amendment 1 by Rep. Shaw (Strike All): The amendment limits the self-insurance risks that an entity created by a public housing authority may insure when joining a public housing authority self-insurance fund. It also restricts the sale of reinsurance to public housing authorities, and entities that they create, to only those authorities or entities that have self-insured their public housing risks. This will conform the committee substitute to its Senate companion.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee

2 Representative Shaw offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Subsections (1) and (7) of section 624.46226,
8 Florida Statutes, are amended to read:

9 624.46226 Public housing authorities self-insurance funds;
10 exemption for taxation and assessments.-

11 (1) Notwithstanding any other provision of law, any two or
12 more public housing authorities in the state as defined in
13 chapter 421 may form a self-insurance fund for the purpose of
14 pooling and spreading liabilities of its members as to any one
15 or combination of casualty risk or real or personal property
16 risk of every kind and every interest in such property against



Amendment No. 1

17 loss or damage from any hazard or cause and against any loss
18 consequential to such loss or damage, provided the self-
19 insurance fund that is created:

20 (a) Has annual normal premiums in excess of \$5 million.

21 (b) Uses a qualified actuary to determine rates using
22 accepted actuarial principles and annually submits to the office
23 a certification by the actuary that the rates are actuarially
24 sound and are not inadequate, as defined in s. 627.062.

25 (c) Uses a qualified actuary to establish reserves for
26 loss and loss adjustment expenses and annually submits to the
27 office a certification by the actuary that the loss and loss
28 adjustment expense reserves are adequate. If the actuary
29 determines that reserves are not adequate, the fund shall file
30 with the office a remedial plan for increasing the reserves or
31 otherwise addressing the financial condition of the fund,
32 subject to a determination by the office that the fund will
33 operate on an actuarially sound basis and the fund does not pose
34 a significant risk of insolvency.

35 (d) Maintains a continuing program of excess insurance
36 coverage and reserve evaluation to protect the financial
37 stability of the fund in an amount and manner determined by a
38 qualified and independent actuary. At a minimum, this program
39 must:

40 1. Purchase excess insurance from authorized insurance
41 carriers or eligible surplus lines insurers.

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Amendment No. 1

42 2. Retain a per-loss occurrence that does not exceed
43 \$350,000.

44 (e) Submits to the office annually an audited fiscal year-
45 end financial statement by an independent certified public
46 accountant within 6 months after the end of the fiscal year.

47 (f) Has a governing body which is comprised entirely of
48 commissioners of public housing authorities that are members of
49 the public housing authority self-insurance fund or persons
50 appointed by the commissioners of public housing authorities
51 that are members of the public housing authority self-insurance
52 fund.

53 (g) Uses knowledgeable persons or business entities to
54 administer or service the fund in the areas of claims
55 administration, claims adjusting, underwriting, risk management,
56 loss control, policy administration, financial audit, and legal
57 areas. Such persons must meet all applicable requirements of law
58 for state licensure and must have at least 5 years' experience
59 with commercial self-insurance funds formed under s. 624.462,
60 self-insurance funds formed under s. 624.4622, or domestic
61 insurers.

62 (h) Submits to the office copies of contracts used for its
63 members that clearly establish the liability of each member for
64 the obligations of the fund.

65 (i) Annually submits to the office a certification by the
66 governing body of the fund that, to the best of its knowledge,

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Amendment No. 1

67 the requirements of this section are met.

68

69 A for-profit or not-for-profit corporation, limited liability
70 company, or other similar business entity in which a public
71 housing authority holds an ownership interest or participates in
72 its governance under s. 421.08(8) may join a self-insurance fund
73 formed under this section in which such public housing authority
74 participates. Such for-profit or not-for-profit corporation,
75 limited liability company, or other similar business entity may
76 join the self-insurance fund solely to insure risks related to
77 public housing.

78 (7) Reinsurance companies complying with s. 624.610 may
79 issue coverage directly to a public housing authority or an
80 entity organized by a public housing authority under s.
81 421.08(8) if such public housing authority or entity self-
82 insures ~~self-insuring~~ its liabilities under this section. A
83 public housing authority purchasing reinsurance or an entity
84 that is organized by a public housing authority under s.
85 421.08(8) and that is purchasing reinsurance shall be considered
86 an insurer for the sole purpose of entering into such
87 reinsurance contracts. Contracts of reinsurance issued to public
88 housing authorities self-insuring under this section or to
89 entities that are organized by public housing authorities under
90 s. 421.08(8) and that are self-insuring under this section shall
91 receive the same tax treatment as reinsurance contracts issued

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Amendment No. 1

92 to insurance companies. However, the purchase of reinsurance
93 coverage by a public housing authority self-insuring under this
94 section or by an entity that is organized by a public housing
95 authority under s. 421.08(8) and that is self-insuring under
96 this section shall not be construed as authorization to
97 otherwise act as an insurer.

98 Section 2. This act shall take effect July 1, 2017.
99

100 -----
101 **T I T L E A M E N D M E N T**

102 Remove everything before the enacting clause and insert:

103 A bill to be entitled

104 An act relating to public housing authority insurance; amending
105 s. 624.46226, F.S.; authorizing certain business entities to
106 join, solely for a specified purpose, self-insurance funds
107 participated in by public housing authorities who hold ownership
108 interests in or who participate in governing such entities;
109 authorizing reinsurance companies to issue coverage directly to
110 certain self-insuring entities organized by a public housing
111 authority under certain circumstances; specifying that such
112 entities are considered insurers under certain circumstances;
113 requiring that reinsurance contracts issued to such entities
114 receive the same tax treatment as contracts issued to insurance
115 companies; revising construction; providing an effective date.
116

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 467 Department of Agriculture & Consumer Services

SPONSOR(S): Agriculture & Property Rights Subcommittee; Raburn

TIED BILLS: IDEN./SIM. **BILLS:** CS/CS/SB 498

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	15 Y, 0 N, As CS	Thompson	Smith
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
3) Commerce Committee		Thompson <i>JAT</i>	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

The bill contains modifications to several agricultural, consumer service, and licensing activities under the jurisdiction of the Florida Department of Agriculture and Consumer Services (Department). The bill in part:

- Allows agriculture education and promotion facility applications to be submitted electronically;
- Removes an outdated rulemaking reference adopting the federal Worker Protection Standard;
- Revises provisions related to cattle marks and brands;
- Applies marketing order certification filing requirements to the Division of Fruit and Vegetables;
- Authorizes the Department to enforce the Florida Building Code on all Florida Forest Service facilities;
- Clarifies that the sale of aquaculture products is allowed by aquaculture producers and dealers;
- Exempts dealers in agricultural products who pay by credit card from certain regulations;
- Removes the five-year expiration period for the Do Not Call list;
- Strengthens household moving insurance requirements;
- Exempts certain contracted persons from surveying and mapping regulations;
- Deletes an obsolete provision related to photogrammetrists;
- Removes metal impression seals as the exclusive seal used by registered surveyors or mappers;
- Revises requirements of surveyors and mappers when submitting elevation certificates;
- Exempts certain office gyms from state regulation;
- Excludes taximeters and digital networks from weights and measures requirements;
- Aligns the concealed weapon and firearm mental health restoration requirements;
- Reduces the initial and renewal license fees for concealed weapons permits;
- Allows a manager of a private investigative agency to manage multiple locations;
- Exempts certain partners and corporate officers from fingerprint retention requirements;
- Revises certification document requirements for Class "K" licenses;
- Authorizes Department access to Department of Law Enforcement mental competency data;
- Requires a licensee to notify their employer if arrested, and provides grounds for disciplinary action;
- Revises notification requirements of private investigative, security, and recovery agencies;
- Requires Class "G" licensees to successfully complete firearm training;
- Allows for the temporary suspension of certain licensees arrested or formally charged with certain crimes; and
- Revises private investigator and security officer training requirements.

The bill revises and eliminates certain licensing and renewal provisions resulting in a significant but sustainable fiscal impact to the Department, and a reduction in Department expenditures. See Fiscal Analysis & Economic Impact Statement section for discussion.

The effective date of the bill is July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The mission of the Department of Agriculture and Consumer Services (Department) is to safeguard the public and support Florida's agricultural economy by:

- Ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;
- Assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the state's agricultural and natural resources by reducing wildfires, promoting environmentally safe agricultural practices, and managing public lands.

The Division of Consumer Services, within the Department, is the state's clearinghouse for consumer complaints, information and protection, including operating Florida's Do Not Call List. Various businesses, such as Pawnbrokers, Health Studios, Sellers of Travel, Professional Surveyors and Mappers, and Telemarketing, are regulated by the Division of Consumer Services. Additionally, the Division of Consumer Services regulates standards for gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides, household moving services, and weighing and measuring devices.¹

The Division of Licensing, within the Department, issues professional licenses to persons providing private security, private investigative, and recovery services to the public pursuant to ch. 493, F.S. In 2017, the Division of Licensing regulated a total of approximately 1.6 million private security, private investigative, and recovery services licenses in the state of Florida.²

The bill includes modifications to several agricultural, consumer services, and licensing activities under the Department's jurisdiction. Each portion of this analysis is divided by subject and followed by a listing of the applicable sections of the bill.

CHAPTER 493, F.S. - PRIVATE INVESTIGATIVE, PRIVATE SECURITY, AND REPOSSESSION SERVICES (Sections 8-22)

Manager of Private Investigative Agency (Section 8)

Current law defines a "manager" as any licensee who directs the activities of licensees at any agency or branch office.³ The law requires the manager to be assigned to, and primarily operate from, the agency or branch office location for which he or she has been designated as manager.⁴

Effect of Proposed Changes

The bill adds that a manager of a private investigative agency may manage multiple private investigative agencies and branch offices. According to the Department, this change considers

¹ The Department of Agriculture and Consumer Services, Division of Consumer Services website available here: <http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services> (last viewed February 7, 2017).

² The Department of Agriculture and Consumer Services, Division of Licensing, *Number of Licensees by Type As of January 31, 2017*, available at: http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf, (last visited February 14, 2017).

³ s. 493.6101(13), F.S.

⁴ *Id.*

advancements in technology that allow an individual to manage multiple locations, and will eliminate multiple licenses and fees without harm to the public.⁵

Fingerprint Retention Exemption (Section 9)

Current law requires each individual, partner, or principal officer in a corporation seeking licensure under ch. 493, F.S., to file with the Department a complete initial application and submit, among other things, a full set of fingerprints, a fingerprint processing fee, and a fingerprint retention fee.⁶ The fees include the cost of retaining the fingerprints in the statewide automated biometric identification system established in s. 943.05(2)(b), F.S., and the cost of enrolling the fingerprints in the national retained print arrest notification program as required under s. 493.6108, F.S.⁷

While many agency partners and corporate officers carry individual ch. 493, F.S., licenses and, therefore, are already required to submit their fingerprints, participate, and pay the ongoing cost associated with enrollment in fingerprint retention, some partners and corporate officers do not hold licensure by the Department.

Effect of Proposed Changes

The bill provides that partners and corporate officers who do not possess licenses subject to renewal are exempt from the fingerprint retention requirements of the statewide automated biometric identification system and the ongoing costs associated with enrolling and retaining their fingerprints in the national retained print arrest notification program.

Firearms Instructor Documentation (Section 9 continued)

Current law requires that in addition to the application, photograph, requisite fees and a full set of fingerprints, an applicant for a Class “K” license (firearms instructor license)⁸ must provide proof of firearm training. Specifically, the law requires firearms instructors to submit one of the following:

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate⁹ and written confirmation by the commission that the applicant possesses an active firearms certification.
- The National Rifle Association Private Security Firearm (NRA) Instructor Certificate.¹⁰
- A firearms instructor certificate issued by a federal law enforcement agency.¹¹

This existing language does not set forth time parameters for these certifications, which allows potential for an applicant to submit certification documents that are less than recent.

Effect of Proposed Changes

The bill provides that both the NRA and federal firearm training certificates must be valid and issued not more than three years before the submission of the applicant’s firearms instructor application.

⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 3 (Feb. 8, 2017).

⁶ s. 493.6105(3)(j), F.S.

⁷ *Id.*

⁸ s. 493.6101(14), F.S., defines “firearm instructor” as any Class “K” licensee who provides classroom or range instruction to applicants for a Class “G” statewide firearm license.

⁹ Information regarding the Criminal Justice Standards & Training Commission Certificate can be found on the Florida Department of Law Enforcement Criminal Justice Standards & Training Commission (CJSTC) webpage, available here:

<http://www.fdle.state.fl.us/cms/CJSTC/Commission/CJSTC-Home.aspx> (last viewed February 8, 2017).

¹⁰ Information regarding the National Rifle Association Instructor Development Schools can be found on the NRA Instructor Development Schools webpage, available here: <http://le.nra.org/training/instructor-development-schools.aspx#schedule> (last viewed February 8, 2017).

¹¹ s. 493.6105(6), F.S.

Investigation of Applicants - Mental Competency Data Access (Section 11)

Current law requires the Department to investigate an applicant for a ch. 493, F.S., private investigative, private security, and repossession service license before it may issue the license.¹² A component of the investigation requires a mental health inquiry to determine whether the applicant has been adjudicated incompetent under ch. 744, F.S., the Florida Guardianship Law, or has been committed to a mental institution under ch. 394, F.S., the Florida mental health law.¹³

The Department of Law Enforcement maintains the Mental Competency (MECOM) database for the purposes of listing persons who are prohibited from purchasing a firearm.¹⁴ MECOM contains information submitted by county clerks of court, including court records of adjudications of mental defectiveness or commitments to mental institutions.¹⁵

Currently, the Department is able to access this information for the purpose of issuing or retaining a concealed weapon license under ch. 790, F.S.¹⁶ However, the Department does not have the authority to access MECOM to review the mental health or substance abuse records of ch. 493, F.S., private investigative, private security, and repossession service applicants. Consequently, the only method available to confirm the existence of an adjudication of incapacity or a commitment is through an applicant's certification in their license application.¹⁷

Effect of Proposed Changes

The bill allows the Department, notwithstanding s. 790.065(2)(a)4.f., F.S.,¹⁸ to receive MECOM data of individuals who are prohibited from purchasing a firearm, for the purposes of determining eligibility of Class "G" or Class "K" applicants and licensees under ch. 493, F.S. This would help prevent the licensure of individuals who have been adjudicated incompetent under ch. 744, F.S., or committed to a mental institution under ch. 394, F.S., unless competency has been judicially restored.

Arrest Notification (Parts of Sections 11 and 15)

Current law does not require ch. 493, F.S., private investigative, private security, and repossession services licensees to notify their employer if they have been arrested. Conversely, the law requires the Department to provide this information to the employer.¹⁹ Specifically, the law provides that when the Department receives information about an arrest within the state of a person who holds a valid license issued under ch. 493, F.S., for a crime that could potentially disqualify the person from holding such license, the Department must provide the arrest information to the agency that employs the licensee.²⁰

Effect of Proposed Changes

The bill requires a person licensed under ch. 493, F.S., to notify his or her employer within three calendar days if he or she is arrested for any offense. The bill also includes failure of any licensee to

¹² s. 493.6108, F.S.

¹³ s. 493.6108(1)(b), F.S.

¹⁴ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 4 (Feb. 8, 2017).

¹⁵ s. 790.065(2)(a)4.c.(I), F.S., requires clerks of court to provide FDLE with names and identifying information of individuals committed under chapters 394, 397, or 744, F.S.

¹⁶ s. 790.065 (2)(a)4.f., F.S., authorizes FDLE to provide the Department with mental health and substance abuse data of individuals who are prohibited from purchasing a firearm for the purposes of determining eligibility of applicants and licensees under ch. 790, F.S.

¹⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 4 (Feb. 8, 2017).

¹⁸ s. 790.065 (2)(a)4.f., F.S., authorizes FDLE to provide the Department with mental health and substance abuse data of individuals who are prohibited from purchasing a firearm for the purposes of determining eligibility of applicants and licensees under ch. 790, F.S.

¹⁹ s. 493.6108(5), F.S.

²⁰ *Id.*

notify his or her employer within three calendar days if arrested for any offense as grounds for disciplinary action.²¹

Agency Notification Requirements (Section 12)

Current law provides requirements for private security, investigative, and recovery agencies, or security officer training schools to follow when notifying the Department of changes of partners, officers, or employees.²²

Specifically, the law requires the agencies or schools to do the following:

- After filing the application, unless the Department declines to issue the license or revokes it after issuance, an agency or school must, within five working days of the withdrawal, removal, replacement, or addition of any or all partners or officers, notify and file with the Department complete applications for such individuals (the agency's or school's good standing under this chapter are contingent upon the Department's approval of any new partner or officer),²³ and
- Each agency or school must, upon the employment or termination of employment of a licensee, report such employment or termination immediately to the Department and, in the case of a termination, report the reason or reasons (the report must be on a form prescribed by the Department).²⁴

Effect of Proposed Changes

The bill eliminates the requirement that schools notify the Department of changes of partners, officers, or employees. Instead of requiring that an agency report the employment or termination of employment of a licensee *immediately*, the bill requires notification to occur *within 15 calendar days*.

According to the Department, the current law seemingly requires security officer training schools to submit applications for corporate officers. However, the schools do not currently submit applications for officers or add/remove officers. Security officer training school requirements are outlined in s. 493.6304, F.S., separate and apart from agency filing requirements. This change corrects potentially conflicting statutory requirements.²⁵

In addition, the bill revises the requirement that the agency report the employment or termination of employment of a licensee in a form prescribed by the Department, to instead be submitted electronically in a manner prescribed by the Department.

Renewal Applications (Section 13)

Current law requires that an applicant for renewal of a Class "G", statewide firearm license, submit proof that he or she has received, during each year of the license period, a minimum of four hours of firearms recertification training taught by a firearms instructor licensee and has complied with such other health and training requirements that the Department must adopt by rule.²⁶ Proof of completion of firearms recertification training must be submitted to the Department upon completion of the training.²⁷

Presently, the training requirement does not specify a type and caliber of firearm.

²¹ Per s. 493.6118(2), F.S., disciplinary action taken by the Department may include(s): denying an application for the issuance or renewal of a license; issue a reprimand; impose an administrative fine in the Class I category pursuant to s. 570.971, F.S., for every county or separate offense, or place the licensee on probation for a period of time and subject to such conditions as the Department may specify.

²² s. 493.6112, F.S.

²³ s. 493.6112(1), F.S.

²⁴ s. 493.6112(2), F.S.

²⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 5 (Feb. 8, 2017).

²⁶ s. 493.6113(3)(b), F.S.

²⁷ *Id.*

Effect of Proposed Changes

The bill requires a Class “G” licensee to successfully complete requalification training for each type and caliber of firearm carried in the course of performing his or her regulated duties.

The bill also replaces the term “recertification” with “requalification.” According to the Department, this nomenclature is used by the industry and is reflected in Department rulemaking.²⁸

Temporary Class “G” Licensure (Section 14)

Current law authorizes the Department to issue a Class “G” temporary firearm license, on a case-by-case basis, if the agency or employer of the applicant has certified that the applicant has been determined to be mentally and emotionally stable. Determinations are made by one of the following methods:

- A validated written psychological test taken within the previous 12-month period;
- An evaluation by a psychiatrist or psychologist licensed in this state or by the Federal Government made within the previous 12-month period; or
- The presentation of a DD form 214, issued within the previous 12-month period, which establishes the absence of emotional or mental instability at the time of discharge from military service.²⁹

The Department of Law Enforcement maintains the MECOM database for the purposes of listing persons who are prohibited from purchasing a firearm.³⁰ MECOM contains information submitted by county clerks of court, including court records of adjudications of mental defectiveness or commitments to mental institutions.³¹

Currently, the Department is able to access this information for the purpose of issuing or retaining a concealed weapon license under ch. 790, F.S.³² However, the Department does not have authority to access MECOM to review the mental health or substance abuse records of ch. 493, F.S., private investigative, private security, and repossession service applicants.

Effect of Proposed Changes

The bill allows the Department to review MECOM data of individuals applying for a temporary Class “G” license to determine that the applicant is not prohibited from licensure based upon the data.

This section also corrects a cross-reference in s. 493.6115(4), F.S., regarding the conditions under which a Class “G” licensee may carry a concealed weapon.

Grounds for Disciplinary Action - Temporary License Suspension (Part of Section 15)

Current law enumerates the grounds under which a licensee under ch. 493, F.S., may be subject to disciplinary action by the Department.³³ The Administrative Procedure Act (APA) specifies the procedures for such agency actions,³⁴ including requirements for when an agency deems its actions

²⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 5 (Feb. 8, 2017).

²⁹ s. 493.6115(12), F.S.

³⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 4 (Feb. 8, 2017).

³¹ s. 790.065(2)(a)4.c.(I), F.S., requires clerks of court to provide FDLE with names and identifying information of individuals committed under chapters 394, 397, or 744, F.S.

³² s. 790.065 (2)(a)4.f., F.S., authorizes FDLE to provide the Department with mental health and substance abuse data of individuals who are prohibited from purchasing a firearm for the purposes of determining eligibility of applicants and licensees under ch. 790, F.S.

³³ s. 493.6118, F.S.

³⁴ s. 120.60(5) and (6), F.S.

necessary to protect the public, but not of an imminent emergency nature.³⁵ In addition, the APA specifies the procedures to follow if an agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license.³⁶

Thus, if the Department determines that the arrest of a ch. 493, F.S., licensee constitutes an immediate danger to the public health, safety, or welfare, the Department follows the emergency suspension procedures established in the APA.³⁷ This requires an agency to proceed to a suspension or revocation hearing pursuant to ss. 120.569 and 120.57, F.S., after the issuance of the emergency suspension order. However, according to the Department, this particular requirement is problematic because to proceed with administrative action based on a licensee's arrest during the pendency of criminal proceedings can result in an administrative hearing being held before or during a criminal trial.³⁸ The Department indicates that both prosecutors and defense attorneys are extremely reluctant to allow witnesses to be deposed and testify at an administrative hearing before a criminal trial takes place as the same facts will be used to prove both cases.³⁹

Currently, the Department of Financial Services is mandated, upon receipt of information or an indictment, to immediately temporarily suspend the licenses of bail bond agents and insurance agents when the licensees have been charged with certain crimes.⁴⁰ Along with these temporary suspension orders, the licensees are notified of their right to challenge the action by requesting a hearing pursuant to ss. 120.569 and 120.57, F.S.

Effect of Proposed Changes

Similar to the authority provided to the Department of Financial Services, the bill allows the Department to temporarily suspend a Class "G" or "K" license until resolution of the criminal proceeding if the licensee was arrested or charged with a firearms related crime. The bill also allows the Department to temporarily suspend any ch. 493, F.S., license until resolution of the criminal proceeding, if the licensee was arrested for a forcible felony.⁴¹ In each instance, the suspended licensee must be provided with notice of his or her ch. 120, F.S., administrative hearing rights.

Specifically, the bill requires the Department to provide a licensee who is suspended under this section with a notice of hearing rights pursuant to chapter 120, F.S., for the limited purpose of determining whether the licensee has been arrested or charged with a disqualifying firearms related crime or forcible felony.

In circumstances where the criminal case results in a non-disqualifying disposition, the bill requires the Department to issue an order lifting the suspension, upon the licensee's submission to the Department of a certified copy of the final resolution. If the criminal case results in a disqualifying disposition, the suspension must remain in effect and the Department must proceed with revocation proceedings pursuant to chapter 120, F.S.

License Fees (Sections 10, 16, 18 and 21)

General licensing requirements in statute provide that Class "A," Class "B," Class "AB," Class "K," Class "R," and branch agency licenses are valid⁴² and renewable⁴³ for a period of three years.

³⁵ s. 120.60(5), F.S.

³⁶ s. 120.60(6), F.S.

³⁷ *Id.*

³⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 6 (Feb. 8, 2017).

³⁹ *Id.*

⁴⁰ ss. 648.45(1) and 626.611(2), F.S.

⁴¹ s. 776.08, F.S., defines "forcible felony" as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁴² s. 493.6111(2), F.S.

However, the fees for these licenses are currently listed under statutes that contain the term “biennial” in the section heading. This inconsistency was recently pointed out to the Department by the Joint Administrative Procedures Committee (JAPC).⁴⁴

Effect of Proposed Changes

The bill corrects inconsistencies of triennial licenses being listed under a heading of biennial by removing the term *biennial* from the licensing fee statute headings of ss. 493.6107, 493.6202, 493.6302, and 493.6402, F.S.

License/Training Requirements (Sections 17, 19, 20 and 22)

The following sections of statute contain obsolete effective dates and/or provisions requiring training to be provided in two parts: sections 493.6203(5), 493.6203(6)(b), 493.6203(6)(c), 493.6303(4)(a), 493.6303(4)(b), and 493.6403(2), F.S.

Effect of Proposed Changes

The bill removes requirements that training be provided in two parts for a Class “C” (Private Investigative Intern) and Class “D” (Security Officer) licenses. According to the Department, whether the courses are taught in two parts or one does not affect the training received by an applicant.⁴⁵

The bill also removes obsolete effective dates for specific training.

CHAPTER 472, F.S., - BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS **(Sections 2 – 6)**

The practice of surveying and mapping is governed by ch. 472, F.S. According to the Department, licensed surveyors and mappers make exact measurements and determine property boundaries.⁴⁶ They provide data relevant to the shape, contour, gravitation, location, elevation, or dimension of land or land features on or near the earth's surface for engineering, mapmaking, mining, land evaluation, construction, and other purposes.⁴⁷

The Board of Professional Surveyors and Mappers (Board) has authority to adopt rules to implement ch. 472, F.S., subject to approval by the Department.⁴⁸ The Board regulates professional surveyors and mappers and businesses that offer surveying and mapping services. The Board also approves continuing education providers and the continuing education courses that are offered to licensees.⁴⁹

Exempted Persons (Section 2)

Current law exempts from ch. 472, F.S., surveying and mapping regulations persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge registered under this chapter, to the extent that the supervision meets standards adopted by rule of the board, if any.⁵⁰

⁴³ s. 493.6113(1), F.S.

⁴⁴ Joint Administrative Procedures Committee letter to the Department of Agriculture and Consumer Services Division of Licensing, December 20, 2016.

⁴⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 7 (Feb. 8, 2017).

⁴⁶ Florida Department of Agriculture and Consumer Services, Consumer Services A to Z Resource Guide: *Surveyors and Mappers*, <https://csapp.800helpfla.com/CSPublicApp/AZGuide/AZSearchResult.aspx#610731692> (last visited Mar. 8, 2017) .

⁴⁷ *Id.*

⁴⁸ s. 472.008, F.S.

⁴⁹ s. 472.018, F.S.

⁵⁰ s. 472.003(5)(a), F.S.

Effect of Proposed Changes

The bill provides an exemption from surveying and mapping regulations for persons who are under contract with an individual registered or legal entity certified under ch. 472, F.S., and who are under the supervision of and subordinate to a person in responsible charge registered under this chapter.

Orientation of Real Property (Section 3)

Current law defines that the "practice of surveying and mapping" to mean, among other things, any professional service or work, the adequate performance of which involves:

- The application of special knowledge of the principles of mathematics;
- The related physical and applied sciences, and
- The relevant requirements of law for adequate evidence of the act of measuring, locating, establishing, or reestablishing lines, angles, elevations, natural and manmade features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surface of bodies of water.⁵¹

The law provides that the purpose of these practices is to determine, establish, describe, display, or interpret the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relocation, and orientation of improved or unimproved real property and appurtenances thereto, including acreage and condominiums.

Effect of Proposed Changes

The bill clarifies that the practice of surveying and mapping includes, but is not limited to, orientation of real property and attached personal property. In addition, the amendment adds volume to the list of measurable facts that are used by surveyors and mappers.

Photogrammetrists (Section 4)

The practice of surveying and mapping also includes, but is not limited to, photogrammetric control.⁵² The specialization of photogrammetry focuses on measuring a subject using high-quality images.⁵³ Recent technological advances in digital cameras, computer processors, and computational techniques have increased access to accurate photogrammetry measurements.⁵⁴ In 2016, the Department reported that due to the changing shape of the profession, the subprofession of photogrammetry has greatly dwindled, and individuals are no longer taking the photogrammetrist exam.⁵⁵

Effect of Proposed Changes

The bill removes photogrammetrists from the list of applicants whom the Board is required to certify as qualified for a license by endorsement.

Metal Seals (Section 5)

Current law requires the Board to adopt, by rule, a form of seal to be used by all registrants holding valid certificates of registration.⁵⁶ Each registrant must obtain an impression-type metal seal in that form; and all final drawings, plans, specifications, plats, or reports prepared or issued by the registrant

⁵¹ s. 472.005(4)(a), F.S.

⁵² s. 472.005(4)(b), F.S.

⁵³ See generally, Cultural Heritage Imaging, *Photogrammetry: What is it?*, <http://culturalheritageimaging.org/Technologies/Photogrammetry/> (last visited Mar. 8, 2017).

⁵⁴ *Id.*

⁵⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2016 House Bill 641, p. 3-4 (Nov. 17, 2015).

⁵⁶ s. 472.025(1), F.S.

in accordance with the standards of practice established by the board must be signed by the registrant, dated, and stamped with the seal.⁵⁷

Effect of Proposed Changes

The bill removes impression type metal seals as the exclusive seal that registered surveyors or mappers must stamp documents with, and instead simply requires “a seal.” This would allow the Board to adopt, by rule, a form of seal other than metal to be used.

Elevation Certificates (Section 6)

Current law defines an “elevation certificate” as the certificate used to demonstrate the elevation of property which has been developed by the Federal Emergency Management Agency pursuant to federal floodplain management regulation and which is completed by a surveyor and mapper.⁵⁸ Beginning January 1, 2017, a surveyor and mapper is required to, within 30 days after completion, submit to the Division of Emergency Management within the Executive Office of the Governor a copy of each elevation certificate that he or she completes.⁵⁹ The copy must be unaltered, except that the surveyor and mapper may redact the name of the property owner.⁶⁰

Effect of Proposed Changes

The bill revises the requirements of surveyors and mappers when submitting elevation certificates to the Division of Emergency Management to clarify that the copy submitted to the Division need not be signed and sealed. In addition, the bill requires surveyors and mappers to retain a signed and sealed copy in their records as prescribed by the Board of Professional Surveyors and Mappers.

CONSUMER SERVICES (Sections 23 - 28)

Health Studios (Section 23)

Currently, the Division of Consumer Services within the Department regulates Health Studios.⁶¹ Requirements under the law include, but are not limited to:

- Registration with the Department;⁶²
- An annual registration fee of \$300 for each health studio location;⁶³
- Contract requirements such as consumer total payment obligations, and cancellation provisions;⁶⁴
- Provision of a security bond, generally ranging from \$10,000 to \$25,000;⁶⁵ and
- Prohibited practices, such as committing an intentional fraud.⁶⁶

Certain businesses are exempt from all of the provisions of the health studio registration law.⁶⁷ The following businesses or activities may be declared exempt upon filing an affidavit with the Department establishing that the business meets one of the following exemption qualifications:

⁵⁷ *Id.*

⁵⁸ s. 472.0366(1)(a), F.S.

⁵⁹ s. 472.0366(2), F.S.

⁶⁰ *Id.*

⁶¹ ss. 501.012 – 501.019, F.S.; s. 501.0125(1), defines “health studio” as any person who is engaged in the sale of services for instruction, training, or assistance in a program of physical exercise or in the sale of services for the right or privilege to use equipment or facilities in furtherance of a program of physical exercise. The term does not include an individual acting as a personal trainer.

⁶² s. 501.015, F.S.

⁶³ *Id.*

⁶⁴ s. 501.017, F.S.

⁶⁵ s. 501.016, F.S.

⁶⁶ s. 501.019, F.S.

⁶⁷ s. 501.013, F.S.

- A bona fide non-profit organization which has been granted tax-exempt status by the United States Internal Revenue Service (IRS);
- A gymnastics school engaged only in instruction and training and in which exercise is only incidental to such instruction and training;
- A golf, tennis or racquetball club in which sports play is the only activity offered by the club. This exemption does not apply if the facility offers the use of physical exercise equipment;
- A program or facility offered and used only for the purpose of dance, aerobic exercise, or martial arts, and which utilizes no physical exercise equipment; and
- A country club that has as its primary function the provision of a social life and recreational amenities to its members, and for which a program of physical exercise is merely incidental to membership.

Effect of Proposed Changes

The bill exempts a program or facility that is offered by an organization for the exclusive use of its employees and their family members from the health studio regulations. This effectively exempts office gyms that are operated by a business for its employees.

Telephone Solicitation (Section 24)

The federal Telephone Consumer Protection Act provides for restrictions on unsolicited advertisement to a telephone.⁶⁸ The state mirrors this provision statutorily⁶⁹ and requires the Department to maintain the state's Do Not Call list,⁷⁰ also known as the "no sales solicitation calls" list.⁷¹ A "telephonic sales call" is defined as a telephone call or text message to a consumer for the purpose of soliciting a sale of any consumer goods or services, soliciting an extension of credit for consumer goods or services, or obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.⁷²

Residents who do not wish to receive sales calls may have their residential, mobile, or telephonic paging device telephone number included on this list by the Department for a period of five years.⁷³ After the five years has expired, the person's subscription expires.

Effect of Proposed Changes

The bill removes the five year subscription expiration period, allowing subscribers to remain on the list until they choose otherwise. This change will mirror the federal Telephone Consumer Protection Act which currently has no expiration.

Household Moving Services (Section 25)

Current law requires any person engaged in intrastate household moving services to register with the Department.⁷⁴ The law governs the loading, unloading, transportation or shipment, and affiliated storage of household goods by movers and applies to the operations of any mover or moving broker engaged in the intrastate transportation or shipment of household goods. The law is intended to secure the satisfaction and confidence of shippers and members of the public when using a mover.⁷⁵

⁶⁸ 47 U.S.C. s. 227.

⁶⁹ s. 501.059, F.S.

⁷⁰ Information regarding the Do Not Call list can be found at the Florida Department of Agriculture and Consumer Services, *Florida DO NOT CALL Program* webpage, available at: <https://www.fldnc.com/About.aspx> (last viewed February 9, 2017).

⁷¹ s. 501.059(3), F.S.

⁷² s. 501.059(1)(g), F.S.

⁷³ s. 501.059(3), F.S.

⁷⁴ ch. 507, F.S.

⁷⁵ s. 507.02, F.S.

A certificate of liability insurance coverage must be provided by the mover showing proof of proper coverage, issued by a company authorized to transact business in this state. The Department shall be named as a certificate holder and must be notified at least 10 days before cancellation of insurance coverage.⁷⁶ The insurance coverage must at a minimum include:

- Liability insurance coverage for the loss or damage of household goods as a result of the negligence of the mover in an amount of not less than \$10,000 per shipment.
 - In lieu of the required liability insurance coverage, a mover operating two or fewer trucks is authorized, and a moving broker is required, to file a performance bond or certificate of deposit in the amount of \$25,000 with the Department designating the Department as the sole beneficiary.⁷⁷
- Motor vehicle coverage, including bodily injury and property damage liability coverage in the following minimum amounts:
 - \$50,000 per occurrence for a commercial motor vehicle with a gross weight of less than 35,000 pounds;
 - \$100,000 per occurrence for a commercial motor vehicle with a gross weight of more than 35,000 pounds, but less than 44,000 pounds; and
 - \$300,000 per occurrence for a commercial motor vehicle with a gross weight of 44,000 pounds or more.⁷⁸

A mover's failure to maintain liability insurance coverage constitutes an immediate threat to the public health, safety, and welfare.⁷⁹ If a mover fails to maintain insurance coverage, the Department is authorized to impose the following penalties:

- Immediately suspend the mover's registration or eligibility for registration, and the mover must immediately cease operating as a mover in this state;⁸⁰ and
- Notwithstanding the availability of any administrative relief pursuant to ch. 120, F.S., seek from the appropriate circuit court an immediate injunction prohibiting the mover from operating in this state until the mover complies, a civil penalty not to exceed \$5,000, and court costs.⁸¹

This provision only applies to liability insurance coverage requirements. As a result, the Department does not appear to have the authority to impose these penalties if a mover fails to maintain motor vehicle coverage.

Effect of Proposed Changes

The bill authorizes the Department to impose the penalties that are currently authorized for failure to maintain liability insurance, on household movers who fail to maintain the required motor vehicle insurance.

Weights and Measurements (Sections 26, 27 and 28)

Currently, the Bureau of Standards within the Department is responsible for the inspection of weights and measures devices or instruments in Florida.⁸² The law defines "weights and measures" as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding those

⁷⁶ s. 507.04, F.S.

⁷⁷ s. 507.04(1), F.S.

⁷⁸ s. 507.04(2), F.S.

⁷⁹ s. 507.04(1)(a)2., F.S.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² ch. 531, F.S., "Weights and Measures Act of 1971."

weights and measures used for the purpose of inspecting the accuracy of devices used in conjunction with aviation fuel.⁸³

The following commercial weights or measures instruments or devices are exempt from the requirements governing weights and measures if the device is:

- A taximeter that is licensed, permitted, or registered by a municipality, county, or other local government and is tested for accuracy and compliance with state standards by the local government in cooperation with the state as authorized in s. 531.421, F.S.
- Used exclusively for weighing railroad cars and is tested for accuracy and compliance with state standards by a private testing agency.
- Used exclusively for measuring aviation fuel or petroleum products inspected under chapter 525, F.S.⁸⁴

Effect of Proposed Changes

The bill excludes taximeters and digital networks from the definition of “weights and measures.” In addition, the bill removes taximeters from the exemptions from weights and measures permit requirement, and from the list of maximum use permit fees established for weights or measures instruments or devices.

AGRICULTURE (Sections 1, 7, 29, 30, 31, 32, 33, 34, and 35)

Agriculture Education and Promotion Facilities (Section 1)

The Department is required to serve as the state agency for screening and certifying applicants as a qualified agriculture education and promotion facility.⁸⁵ An “agriculture education and promotion facility” is defined as an exhibition hall, arena, civic center, exposition center, or other capital project or facility which can be used for exhibitions, demonstrations, trade shows, classrooms, civic events, and other purposes that promote agriculture, horticulture, livestock, equestrian, and other resources of the state and educate the residents as to these resources.⁸⁶ The Department is required to adopt rules pursuant to ss. 120.536(1), and 120.54, F.S., for the receipt and processing of applications for funding of projects pursuant to this section.

Applications must be submitted by October 1 of each year.⁸⁷ Current law does not prescribe a method for the applications to be submitted.

Effect of Proposed Changes

The bill requires agriculture education and promotion facility applications to be *postmarked or electronically* submitted by October 1 of each year.

Enforcement of Federal Worker Protection Regulations (Section 7)

The Environmental Protection Agency (EPA) Agricultural Worker Protection Standard (WPS) is a federal regulation aimed at reducing the risk of pesticide poisoning and injury among agricultural workers and pesticide handlers.⁸⁸ The EPA Labeling Requirements for Pesticides and Devices reviews pesticide product labels as part of the licensing and registration process for pesticides.⁸⁹ The label on a

⁸³ s. 531.37(1), F.S.

⁸⁴ s. 531.61, F.S.

⁸⁵ s. 288.1175, F.S.

⁸⁶ s. 288.1175(3), F.S.

⁸⁷ s. 288.1175(8), F.S.

⁸⁸ 40 C.F.R. Part 140.

⁸⁹ 40 C.F.R. s. 156.10.

pesticide package or container and the accompanying instructions are a key part of pesticide regulation.⁹⁰ The label provides information about how to handle and safely use the pesticide product and avoid harm to human health and the environment.⁹¹

Chapter 487, F.S., is the Florida law that governs pesticide regulation and safety. This chapter is made up of the Florida Pesticide Law, which regulates the distribution, sale, and use of pesticides and the Florida Agricultural Worker Safety Act, which ensures that agricultural workers employed in the state receive protection from agricultural pesticides. The Department is the primary agency responsible for administering these laws and the WPS, which was adopted by the Department in rule during the 1995-1996 fiscal year.⁹²

Effect of Proposed Changes

The bill removes the outdated reference to the 1995-1996 fiscal year in which the Department adopted the EPA regulations.

Livestock Marks and Brands (Sections 29, 30, and 31)

Current law requires any livestock owner who uses a mark or brand to identify their livestock to register the mark or brand by applying to the Department and paying a \$10 fee for each mark or brand.⁹³ Among other application requirements, the application must be made on a form prescribed by the Department and must be accompanied by a facsimile of the brand applied for.⁹⁴

Registration of a mark or brand entitles the registrant to exclusive ownership and use of the mark or brand for a five year period.⁹⁵ Marks or brands may be renewed for successive five year periods upon application and payment of a \$5 renewal fee.⁹⁶

Relating to the transfer of ownership of cattle, current law requires all purchasers of cattle, except for immediate slaughter, to remark or rebrand the same within 10 days or have on request a bill of sale from the rightful owner of marks and brands on cattle.⁹⁷ This requirement does not apply where an entire stock of cattle with the mark and brand or marks and brands carried by them is to be sold and conveyed.⁹⁸ The Department currently does not regulate transfer of ownership of cattle, and very few cattle owners rebrand purchased cattle.⁹⁹

Effect of Proposed Changes

The bill revises the requirement that an application be accompanied by a *facsimile* of the brand applied for, and instead allows a *detailed drawing* of the brand. According to the Department, this revision would update the statute to allow alternative methods to be offered to receive brand applications, such as e-mail of the application.¹⁰⁰

⁹⁰ United States Environmental Protection Agency, Pesticide Registration, Labeling Requirements webpage, available at: <https://www.epa.gov/pesticide-registration/labeling-requirements> (last viewed February 7, 2017).

⁹¹ *Id.*

⁹² s. 487.2041, F.S.

⁹³ s. 534.021, F.S.

⁹⁴ *Id.*

⁹⁵ s. 534.041, F.S.

⁹⁶ *Id.*

⁹⁷ s. 534.061, F.S.

⁹⁸ *Id.*

⁹⁹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 9 (Feb. 8, 2017).

¹⁰⁰ *Id.*

The bill extends the current mark and brand renewal period of five years to every ten years, and removes the required \$5 renewal fee.

The bill repeals the section of law regarding the transfer of ownership of cattle.

Assessment; funds; review of accounts; loans (Section 32)

Regarding the Department's responsibility to administer agricultural commodity marketing orders for every person engaged in the production, distributing, or handling of agricultural commodities within this state, current law requires the director of the Division of Marketing and Development to file with the internal auditor of the Department a certification of conditions and circumstances justifying each contract or agreement entered into without competitive bidding.¹⁰¹

Effect of Proposed Changes

The bill specifies that the Division of Fruit and Vegetables, rather than the Division of Marketing and Development, must file with the internal auditor a certification of conditions and circumstances justifying a contract or agreement that was entered into without competitive bidding.

This modification to statute will reflect the actual division that oversees this function due to recent Department restructuring.

Florida Forest Service Building Structures (Section 33)

The primary responsibility of the Florida Forest Service (FFS) is the prevention, detection, and suppression of wildfires wherever they may occur.¹⁰² In carrying out these responsibilities, the FFS is authorized to build structures¹⁰³ not to exceed a cost of \$50,000 per structure from existing resources on the following properties:

- Forest lands;
- Federal excess property; and
- Unneeded existing structures.¹⁰⁴

These structures must meet all applicable building codes.¹⁰⁵ In 2011, the Department was granted the exclusive authority to enforce the Florida Building Code as it relates to Department wildfire and law enforcement facilities.¹⁰⁶

Effect of Proposed Changes

The bill extends authority to enforce the Florida Building Code as it relates to Department wildfire and law enforcement facilities to also include *other* Florida Forest Service facilities.

According to the Department, this will allow the use of one building permit authority for all Florida Forest Service facilities allowing for more consistency and efficiency during the building permit process while still maintaining the assurance that all construction is designed and constructed in compliance with the Florida Building Code.¹⁰⁷

¹⁰¹ s. 573.118, F.S.

¹⁰² s. 590.01, F.S.

¹⁰³ Notwithstanding ch. 216, F.S., relating to the state agency planning and budgeting process, and ch. 255, F.S., relating to public property and publicly owned buildings.

¹⁰⁴ s. 590.02(4), F.S.

¹⁰⁵ *Id.*

¹⁰⁶ ch. 2011-206, Laws of Fla.; codified in s. 590.02(4)(b), F.S.

¹⁰⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 10 (Feb. 8, 2017).

Aquaculture Certificate of Registration (Section 34)

The Florida Aquaculture Policy Act¹⁰⁸ defines “aquaculture” as the cultivation of aquatic organisms.¹⁰⁹ The act provides that “aquaculture products” are aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions.¹¹⁰ Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.¹¹¹

Current law requires that any person engaging in aquaculture be certified by the Department.¹¹² An aquaculture producer certified under this law is authorized to sell aquaculture products (except shellfish, snook, fish of the genus *Micropterus*, and prohibited and restricted freshwater and marine species identified by rules of the Fish and Wildlife Conservation Commission) without restriction so long as the product origin can be identified.¹¹³

There appears to be confusion as to whether wholesale and/or retail dealers are required to hold an aquaculture certificate of registration in order to sell aquaculture products. It is the Department’s position that an aquaculture certificate of registration is only issued to those who produce (grow) aquaculture products, therefore wholesale and retail dealers would not be required to hold that specific certificate of registration.¹¹⁴

Effect of Proposed Change

The bill provides that aquaculture products (except shellfish, snook, fish of the genus *Micropterus*, and prohibited and restricted freshwater and marine species identified by rules of the Fish and Wildlife Conservation Commission) may be sold without restriction “*by an aquaculture producer certified pursuant to this section or by a dealer licensed pursuant to part VII of chapter 379.*”

According to the Department, this language would remedy the issue surrounding the interpretation of the statute, as this section is solely about the unrestricted sale of identified aquaculture products, not about who can sell these products at wholesale or retail.¹¹⁵

Dealers in Agricultural Products (Section 35)

Current law governing agricultural products dealers defines a “dealer in agricultural products” as “any person, partnership, corporation, or other business entity, whether itinerant or domiciled within this state, engaged within this state in the business of purchasing, receiving, or soliciting agricultural products from the producer or the producer’s agent or representative for resale or processing for sale; acting as an agent for such producer in the sale of agricultural products for the account of the producer on a net return basis; or acting as a negotiating broker between the producer or the producer’s agent or representative and the buyer.”¹¹⁶

The law finds that producers are subject to the possibility of serious economic harm in the event an agricultural products dealer defaults.¹¹⁷ Therefore, it is necessary in the interest of the public welfare to regulate agricultural products dealers in this state.¹¹⁸ The regulations include, but are not limited to,

¹⁰⁸ ch. 597, F.S.

¹⁰⁹ s. 597.0015(1), F.S.

¹¹⁰ s. 597.0015(3), F.S.

¹¹¹ *Id.*

¹¹² s. 597.004(1), F.S.

¹¹³ s. 597.004(5)(a), F.S.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ s. 604.15(2), F.S.

¹¹⁷ s. 604.151, F.S.

¹¹⁸ *Id.*

licensing,¹¹⁹ bonding,¹²⁰ and penalties for violations of these requirements.¹²¹ These provisions do not apply to dealers who pay at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or PIN-based debit transaction.¹²²

Effect of Proposed Changes

The bill exempts dealers in agricultural products who pay at the time of purchase with a credit card from certain dealer regulations of the Department.

CONCEALED CARRY LICENSURE (Section 36)

Restoration of Firearms Eligibility

Pursuant to the federal National Instant Criminal Background Check System Improvement Amendments Act of 2007,¹²³ current Florida law provides a process by which firearm disabilities may be removed for individuals who are prohibited under state and federal law¹²⁴ from purchasing a firearm due to a mental health or substance abuse commitment.¹²⁵ A person who has been adjudicated mentally defective or committed to a mental institution may petition the circuit court that made the adjudication or commitment for relief from the firearm prohibition.¹²⁶ A copy of the petition must be served on the state attorney for the county in which the person was adjudicated or committed.¹²⁷ The state attorney may object.¹²⁸ The court is required to grant relief if it finds, based on evidence presented regarding the petitioner's reputation, mental health record and criminal history record, the circumstances surrounding the firearm disability, and any other evidence, that the petitioner is not likely to act in a manner dangerous to public safety and that granting the relief would not be contrary to the public interest.¹²⁹ This will delete disqualifying substance abuse or mental health commitment orders from the MECOM database. If the final order denies relief, the petitioner may not petition again for one year.¹³⁰

However, current law also requires the Department to issue a license to carry a concealed weapon or firearm if the applicant:

- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;¹³¹

¹¹⁹ s. 604.17, F.S.

¹²⁰ s. 604.19, F.S.

¹²¹ s. 604.30, F.S.

¹²² s. 604.16(2), F.S.

¹²³ The NICS Improvement Amendments Act of 2007 (NIAA), Pub. L. No. 110-180, H.R. 2640, 110th Cong. (Jan. 8, 2008) seeks to address the gap in information available to the National Instant Criminal Background Check System (NICS) administered by the Federal Bureau of Investigation (FBI) about such prohibiting mental health adjudications and commitments and other prohibiting backgrounds in order to keep guns out of the hands of persons prohibited by federal or state law from receiving or possessing firearms. Since state submission of records to NICS is voluntary, the NIAA strives to increase the availability of state records through a series of financial incentives.

¹²⁴ 18 U.S.C. § 922(d)(4), prohibits possession of a firearm or ammunition by any person who has been "adjudicated as a mental defective" or involuntarily "committed to any mental institution.

¹²⁵ s. 790.065(2)(a)(4)(d), F.S.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ s. 790.06(2)(e), F.S.

- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order,¹³² or
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application.¹³³

As a result, current law governing concealed weapon and firearm eligibility provides conflicting mental health restoration processes. According to the Department, the federal restoration process in s. 790.065(2)(a)4.d., F.S., makes the three and five year waiting periods in current law obsolete.¹³⁴

Current law requires the application for concealed weapon or firearm licensure to be completed, under oath, on a form adopted by the Department.¹³⁵ The Department is required to provide in its concealed weapon or firearm license application a statement that the applicant has been furnished a copy of the chapter of law governing concealed weapon and firearm licensure, in addition to the current requirement to provide a copy of this chapter.¹³⁶

Current law requires concealed weapon and firearm applicants to submit to the Department or an approved tax collector a nonrefundable license fee of up to \$60 if he or she has not previously been issued a statewide license, or a nonrefundable license fee of up to \$50 for renewal of a statewide license.¹³⁷

Effect of Proposed Changes

The bill aligns the three and five year restoration processes in current law with the federal restoration process in s. 790.065(2)(a)4.d., F.S. According to the Department, this will remove the conflicts between the two statutes and better inform the public of the restoration requirements.¹³⁸

Specifically, the bill requires the Department to issue a license to carry a concealed weapon or firearm if the applicant has not been committed for the abuse of a controlled substance under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or similar laws of any other state. An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., or pursuant to the law of the state in which the commitment occurred is deemed not to be committed for the abuse of a controlled substance under this subparagraph.

For those who have been adjudicated an incapacitated person, instead of the five-year waiting period, the bill provides that an applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., or pursuant to the law of the state in which the adjudication occurred is deemed not to have been adjudicated an incapacitated person under this paragraph.

For those who have been committed to a mental institution under ch. 394, F.S., the bill provides that instead of the five-year waiting period, an applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., or pursuant to the law of the state in which the commitment occurred is deemed not to have been committed in a mental institution under this paragraph.

¹³² s. 790.06(2)(i), F.S.

¹³³ s. 790.06(2)(j), F.S.

¹³⁴ Email from Grace Lovett, Legislative Affairs Director, Florida Department of Agriculture & Consumer Services, *ch. 790 Changes*, (Feb. 21, 2017).

¹³⁵ s. 790.06(4)(c), F.S.

¹³⁶ *Id.*

¹³⁷ s. 790.06(5)(b), F.S.

¹³⁸ *Id.*

The bill authorizes the Department to provide in its concealed weapon or firearm license application statement that the applicant has been furnished a website link to the chapter of law governing concealed weapon and firearm licensure, in addition to the current requirement to provide a copy of this chapter.

The bill reduces the \$60 nonrefundable license fee for first time licenses from \$60 to \$55, and reduces the \$50 nonrefundable license fee for renewal licenses to \$45.

B. SECTION DIRECTORY:

- Section 1** amends s. 288.1175, F.S., related to agriculture education and promotion facilities.
- Section 2** amends s. 472.003, F.S., related to persons exempt from surveying and mapping regulations.
- Section 3** amends s. 472.005, F.S., related to definitions.
- Section 4** amends s. 472.015, F.S., related to licensure.
- Section 5** amends s. 472.025, F.S., related to seals.
- Section 6** amends s. 472.0366, F.S., related to elevation certificates; requirements for surveyors and mappers.
- Section 7** amends s. 487.2041, F.S., related to enforcement of federal worker protection regulations.
- Section 8** amends s. 493.6101, F.S., related to definitions.
- Section 9** amends s. 493.6105, F.S., related to initial application for licensure.
- Section 10** amends s. 493.6107, F.S., related to fees
- Section 11** amends s. 493.6108, F.S., related to investigation of applicants by Department of Agriculture and Consumer Services.
- Section 12** amends s. 493.6112, F.S., related to notification to Department of Agriculture and Consumer Services of changes of partner of officer or employees.
- Section 13** amends s. 493.6113, F.S., related to renewal application for licensure.
- Section 14** amends s. 493.6115, F.S., related to weapons and firearms.
- Section 15** amends s. 493.118, F.S., related to grounds for disciplinary action.
- Section 16** amends s. 493.6202, F.S., related to fees.
- Section 17** amends s. 493.6203, F.S., related to license requirements.
- Section 18** amends s. 493.6302, F.S., related to fees.
- Section 19** amends s. 493.6303, F.S., related to license requirements.
- Section 20** amends s. 493.6304, F.S., related to security officer school or training facility.

- Section 21** amends s. 493.6402, F.S., related to fees.
- Section 22** amends s. 493.6403, F.S., related to license requirements.
- Section 23** amends s. 501.013, F.S., related to health studios.
- Section 24** amends s. 501.059, F.S., related to telephone solicitation.
- Section 25** amends s. 507.04, F.S., related to required insurance coverage.
- Section 26** amends s. 531.37, F.S., related to definitions.
- Section 27** amends s. 531.61, F.S., related to exemptions from permit requirement.
- Section 28** amends s. 531.61, F.S., related to maximum permit fees.
- Section 29** amends s. 534.021, F.S., related to recording of marks and brands.
- Section 30** amends s. 534.041, F.S., related to renewal of certificate of mark or brand.
- Section 31** repeals s. 534.061, F.S., relating to transfer of ownership of cattle.
- Section 32** amends s. 573.118, F.S., related to agricultural commodities assessment; funds; review of accounts.
- Section 33** amends s. 590.02, F.S., related to Florida Forest Service; powers; authority, and duties; building structures.
- Section 34** amends s. 597.004, F.S., related to aquaculture certificate of registration.
- Section 35** amends s. 604.16, F.S., related to agriculture products dealer exceptions.
- Section 36** amends s. 790.06, F.S., related to license to carry concealed weapon or firearm.
- Section 37** provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

As a result of the bill, the Department estimates the following total average loss in recurring revenues:

	(FY 17-18)	(FY 18-19)	(FY 19-20)
Elimination of Multiple Licenses for Private Investigative Agency Managers	(\$6,562)	(\$6,748)	(\$6,748)
Elimination of Cattle Brand Registration	(\$7,647)	(\$7,647)	(\$7,647)
Exemption for Agriculture Dealer's Licenses			
\$170 license fee (bonds \$5,000-\$9,999)			
185 exemptions x \$170	(\$31,450)	(\$31,450)	(\$31,450)

\$230 license fee (bonds \$10,000-\$14,999)			
106 exemptions x \$230	(\$24,380)	(\$24,380)	(\$24,380)
\$300 license fee (bonds \$15,000-\$100,000)			
763 exemptions x \$300	(\$228,900)	(\$228,900)	(\$228,900)
Administrative Fines	(\$20,000)	(\$20,000)	(\$20,000)
Total	(\$304,730)	(\$304,730)	(\$304,730)
Elimination of Taximeters			
\$35 permit fee x 3,700 permits	(\$129,500)	(\$129,500)	(\$129,000)¹³⁹
Concealed Weapon License			
Fee Reduction	(\$1,795,130)	(\$1,706,115)	(\$1,652,295)¹⁴⁰
Total Revenue	(\$2,243,569)	(\$2,154,740)	(\$2,100,420)¹⁴¹

2. Expenditures:

The Department anticipates a reduction in agency expenditures as a result of the bill. These anticipated reductions include:

	<u>(FY 17-18)</u>	<u>(FY 18-19)</u>	<u>(FY 19-20)</u>
Elimination of Multiple Licenses for Private Investigative Agency Managers			
Background Check Expenditures	(\$1,419)	(\$1,605)	(\$1,605)
Exemption for Agriculture Dealer's Licenses			
Salaries and Benefits	(\$191,624)	(\$191,624)	(\$191,624)
Expenses (standard package x 4 FTEs)	(\$24,700)	(\$24,700)	(\$24,700)
HR Services (\$339 x 4 FTEs)	(\$1,356)	(\$1,356)	(\$1,356)
Non-Operating	(\$33,264)	(\$33,279)	(\$33,279)
Total	(\$250,944)	(\$250,959)	(250,959)
Total Expenditures	(\$252,363)	(\$252,564)	(\$252,564)¹⁴²
Net Fiscal Impact to Department	(\$1,991,206)	(\$1,902,176)	(\$1,847,856)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has no fiscal impact on local government revenues.

2. Expenditures:

The bill has no fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates the requirement that managers have separate licenses to manage multiple branch offices of private investigative agencies. Each license fee is \$450.

¹³⁹ Email from Grace Lovett, Legislative Affairs Director, Florida Department of Agriculture & Consumer Services, *Good news! --fee reduction*, (Mar. 8, 2017).

¹⁴⁰ *Id.*

¹⁴¹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 12 (Feb. 8, 2017).

¹⁴² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 House Bill 467, p. 12-13 (Feb. 8, 2017).

The bill provides that partners and corporate officers who do not possess licenses subject to renewal under s. 493.6113, F.S., are exempt from the fingerprint retention requirements of the statewide automated biometric identification system established in s. 943.05(2)(b), F.S., and the ongoing costs associated with enrolling and retaining their fingerprints in the national retained print arrest notification program required under s. 493.6108, F.S.

The bill removes the \$5 cattle marks and brands renewal fee.

The bill exempts dealers in agricultural products who pay at the time of purchase with a credit card from certain dealer regulations of the Department and associated fees.

The bill reduces concealed weapon licensure and renewal fees by \$5.

D. FISCAL COMMENTS:

According to the Department, its assessment of the trust fund balance for the concealed weapon program over a number of years has found that the program can sustain a license fee reduction.¹⁴³ The Department has also assessed the General Inspection Trust Fund, which is impacted by the other reductions in revenue, and found that the trust fund can sustain the reductions.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Agriculture & Property Rights Subcommittee adopted nine amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Provides an exemption from surveying and mapping regulations for certain contracted persons;
- Clarifies that the practice of surveying and mapping includes, but is not limited to, orientation of real property and attached personal property, and adds volume to the list of measurable facts used by surveyors and mappers;
- Deletes an obsolete provision related to photogrammetrists;
- Removes metal impression seals as the exclusive seal that registered surveyors or mappers must stamp documents with;

¹⁴³ Email from Grace Lovett, Legislative Affairs Director, Florida Department of Agriculture & Consumer Services, *Good news! --fee reduction*, (Mar. 8, 2017).

- Revises the requirements of surveyors and mappers when submitting elevation certificates to the Division of Emergency Management;
- Restricts access to the Florida Department of Law Enforcement's Mental Competency (MECOM) database by the Department when determining eligibility of Class "G" and Class "K" applicants;
- Revises the Department's administrative suspension requirement in the bill to be a temporary suspension with administrative hearing rights;
- Exempts a program or facility that is offered by an organization for the exclusive use of its employees and their family members from health studio regulations;
- Excludes taximeters and digital networks from the weights and measures requirements;
- Clarifies that the sale of aquaculture products is allowed by aquaculture producers and dealers;
- Aligns mental health restoration requirements; and
- Reduces license fees for concealed weapons permits.

This analysis is drafted to the committee substitute as passed by the Agriculture & Property Rights Subcommittee.

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A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 288.1175, F.S.; specifying that applications for funding for certain agriculture education and promotion facilities be postmarked or electronically submitted by a certain date; amending s. 472.003, F.S.; specifying that certain persons under contract with registered or certified surveyors and mappers are not subject to the provisions of ch. 472, F.S.; amending s. 472.005, F.S.; redefining the terms "practice of surveying and mapping" and "subordinate"; amending s. 472.015, F.S.; revising the qualifications for licensure by endorsement; amending s. 472.025, F.S.; deleting a requirement that registrant seals be of impression-type metal; amending s. 472.0366, F.S.; revising the requirements for copies of evaluation certificates that must be submitted to the Division of Emergency Management within the Executive Office of the Governor; requiring that certain copies of evaluation certificates be retained in the surveyor and mapper's records; amending s. 487.2041, F.S.; requiring the department to adopt by rule certain United States Environmental Protection Agency regulations relating to labeling requirements for pesticides and devices;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 amending s. 493.6101, F.S.; specifying that a manager
 27 of a private investigative agency may manage multiple
 28 offices; amending s. 493.6105, F.S.; exempting certain
 29 partners and corporate officers from fingerprint
 30 retention requirements; revising the submission
 31 requirements for applications for Class "K" licenses;
 32 amending s. 493.6107, F.S.; deleting a specification
 33 that license fees are biennial; amending s. 493.6108,
 34 F.S.; providing an authorization to the Department of
 35 Law Enforcement to release certain mental health and
 36 substance abuse history of applicants and licensees
 37 for the purpose of determining licensure eligibility;
 38 requiring licensees to notify their employer of an
 39 arrest within a specified period; amending s.
 40 493.6112, F.S.; revising the notification requirements
 41 for changes of certain partners, officers, and
 42 employees of private investigative, security, and
 43 recovery agencies; amending s. 493.6113, F.S.;
 44 specifying that Class "G" licensees must complete
 45 requalification training for each type and caliber of
 46 firearm carried in the course of performing regulated
 47 duties; conforming terminology; amending s. 493.6115,
 48 F.S.; correcting a cross-reference regarding the
 49 conditions under which a Class "G" licensee may carry
 50 a concealed weapon; revising the conditions under

51 | which the department may issue a temporary Class "G"
 52 | license; amending s. 493.6118, F.S.; providing that
 53 | failure of a licensee to timely notify his or her
 54 | employer of an arrest is grounds for disciplinary
 55 | action by the Department of Agriculture and Consumer
 56 | Services; requiring the department to suspend
 57 | specified licenses of a licensee arrested or formally
 58 | charged with certain crimes until disposition of the
 59 | case; requiring the department to notify a licensee of
 60 | administrative hearing rights; specifying that any
 61 | hearing must be limited to a determination as to
 62 | whether the licensee has been arrested or charged with
 63 | a disqualifying crime; providing that the suspension
 64 | may be lifted under certain circumstances; requiring
 65 | the department to proceed with revocation under
 66 | certain circumstances; amending s. 493.6202, F.S.;
 67 | deleting a specification that license fees are
 68 | biennial; amending s. 493.6203, F.S.; deleting a
 69 | requirement that certain training be provided in two
 70 | parts; deleting obsolete provisions; amending s.
 71 | 493.6302, F.S.; deleting a specification that license
 72 | fees are biennial; amending s. 493.6303, F.S.;
 73 | deleting a requirement that certain training must be
 74 | provided in two parts; deleting obsolete provisions;
 75 | making technical changes; amending s. 493.6304, F.S.;

76 making technical changes; amending s. 493.6402, F.S.;

77 deleting a specification that license fees are

78 biennial; amending s. 493.6403, F.S.; requiring that

79 applicants for Class "E" and "EE" licenses submit

80 proof of successful completion of certain training,

81 not just complete such training; deleting an obsolete

82 provision; amending s. 501.013, F.S.; exempting

83 certain programs and facilities from health studio

84 regulations; amending s. 501.059, F.S.; removing a

85 limitation on the length of time for which the

86 department must place certain persons on a no-

87 solicitation list; amending s. 507.04, F.S.; making a

88 technical change; amending s. 531.37, F.S.; revising a

89 definition; amending s. 531.61, F.S.; removing an

90 exemption from commercial use permit requirements for

91 taximeters; amending s. 531.63, F.S.; removing a

92 limitation on annual commercial use permit fees for

93 taximeters; amending s. 534.021, F.S.; specifying that

94 a detailed drawing, rather than a facsimile, must

95 accompany an application for the recording of certain

96 marks and brands; amending s. 534.041, F.S.; extending

97 the renewal period for certain mark or brand

98 certificates; eliminating a renewal fee; repealing s.

99 534.061, F.S., relating to the transfer of ownership

100 of cattle; amending s. 573.118, F.S.; specifying that

101 the Division of Fruit and Vegetables, rather than the
 102 Division of Marketing and Development, must file a
 103 specified certification; amending s. 590.02, F.S.;
 104 specifying that the department has exclusive authority
 105 to enforce the Florida Building Code as it relates to
 106 Florida Forest Service facilities under the
 107 jurisdiction of the department; amending s. 597.004,
 108 F.S.; authorizing certain saltwater products dealers
 109 to sell certain aquaculture products without
 110 restriction under a specified circumstance; amending
 111 s. 604.16, F.S.; specifying that dealers in
 112 agricultural products who pay by credit card are
 113 exempt from certain dealer requirements; amending s.
 114 790.06, F.S.; revising the requirements to obtain a
 115 license to carry a concealed weapon or firearm;
 116 revising the requirements of the application form;
 117 reducing the fees for concealed weapon or firearm
 118 licenses; providing an effective date.

119

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

121

122 Section 1. Subsection (8) of section 288.1175, Florida
 123 Statutes, is amended to read:

124 288.1175 Agriculture education and promotion facility.—

125 (8) Applications must be postmarked or electronically

126 submitted by October 1 of each year. The Department of
 127 Agriculture and Consumer Services may not recommend funding for
 128 less than the requested amount to any applicant certified as an
 129 agriculture education and promotion facility; however, funding
 130 of certified applicants shall be subject to the amount provided
 131 by the Legislature in the General Appropriations Act for this
 132 program.

133 Section 2. Paragraph (d) is added to subsection (5) of
 134 section 472.003, Florida Statutes, to read:

135 472.003 Persons not affected by ss. 472.001-472.037.-
 136 Sections 472.001-472.037 do not apply to:

137 (5)

138 (d) Persons who are under contract with an individual
 139 registered or legal entity certified under this chapter and who
 140 are under the supervision of and subordinate to a person in
 141 responsible charge registered under this chapter.

142 Section 3. Subsections (4) and (10) of section 472.005,
 143 Florida Statutes, are amended to read:

144 472.005 Definitions.-As used in ss. 472.001-472.037:

145 (4) (a) "Practice of surveying and mapping" means, among
 146 other things, any professional service or work, the adequate
 147 performance of which involves the application of special
 148 knowledge of the principles of mathematics, the related physical
 149 and applied sciences, and the relevant requirements of law for
 150 adequate evidence of the act of measuring, locating,

151 establishing, or reestablishing lines, angles, elevations,
 152 natural and manmade features in the air, on the surface and
 153 immediate subsurface of the earth, within underground workings,
 154 and on the beds or surface of bodies of water, for the purpose
 155 of determining, establishing, describing, displaying, or
 156 interpreting the facts of size, volume, shape, topography, tidal
 157 datum planes, and legal or geodetic location or relocation, ~~and~~
 158 ~~orientation of improved or unimproved real property and~~
 159 ~~appurtenances thereto, including acreage and condominiums.~~

160 (b) The practice of surveying and mapping also includes,
 161 but is not limited to, photogrammetric control; orientation of
 162 improved or unimproved real property and appurtenances and
 163 personal property attached thereto, including acreage and
 164 condominiums; the monumentation and remonumentation of property
 165 boundaries and subdivisions; the measurement of and preparation
 166 of plans showing existing improvements after construction; the
 167 layout of proposed improvements; the preparation of descriptions
 168 for use in legal instruments of conveyance of real property and
 169 property rights; the preparation of subdivision planning maps
 170 and record plats, as provided for in chapter 177; the
 171 determination of, but not the design of, grades and elevations
 172 of roads and land in connection with subdivisions or divisions
 173 of land; and the creation and perpetuation of alignments related
 174 to maps, record plats, field note records, reports, property
 175 descriptions, and plans and drawings that represent them.

176 (10) "Subordinate" means a person ~~an employee~~ who performs
 177 work under the direction, supervision, and responsible charge of
 178 a person who is registered under this chapter.

179 Section 4. Paragraph (a) of subsection (5) of section
 180 472.015, Florida Statutes, is amended to read:

181 472.015 Licensure.—

182 (5)(a) The board shall certify as qualified for a license
 183 by endorsement an applicant who, at the time of application:

184 1. Holds a valid license to practice surveying and mapping
 185 issued before ~~prior to~~ July 1, 1999, by another state or
 186 territory of the United States; has passed a national, regional,
 187 state, or territorial licensing examination that is
 188 substantially equivalent to the examination required by s.
 189 472.013; and has a specific experience record of at least 8
 190 years as a subordinate to a registered surveyor and mapper in
 191 the active practice of surveying and mapping, 6 years of which
 192 must be of a nature indicating that the applicant was in
 193 responsible charge of the accuracy and correctness of the
 194 surveying and mapping work performed; or

195 2. Holds a valid license to practice surveying and mapping
 196 issued by another state or territory of the United States if the
 197 criteria for issuance of the license were substantially the same
 198 as the licensure criteria that existed in Florida at the time
 199 the license was issued. ~~or~~

200 ~~3. Is a practicing photogrammetrist who holds the~~

201 ~~Certified Photogrammetrist designation of the American Society~~
 202 ~~for Photogrammetry and Remote Sensing and held such designation~~
 203 ~~on or before July 1, 2005; is a graduate of a 4-year course of~~
 204 ~~study at an accredited college or university; and has a specific~~
 205 ~~experience record of 6 or more years as a subordinate to a~~
 206 ~~Certified Photogrammetrist of the American Society for~~
 207 ~~Photogrammetry and Remote Sensing in the active practice of~~
 208 ~~surveying and mapping, 5 years of which shall be of a nature~~
 209 ~~indicating that the applicant was in responsible charge of the~~
 210 ~~accuracy and correctness of the surveying and mapping work~~
 211 ~~performed. The course of study must have included not fewer than~~
 212 ~~32 semester hours of study or its academic equivalent. The~~
 213 ~~applicant must have completed a minimum of 25 semester hours~~
 214 ~~from a college or university approved by the board in surveying~~
 215 ~~and mapping subjects or in any combination of courses in civil~~
 216 ~~engineering, surveying, mapping, mathematics, photogrammetry,~~
 217 ~~forestry, or land law and the physical sciences. Any of the~~
 218 ~~required 25 semester hours of study completed not as a part of~~
 219 ~~the 4-year course of study shall be approved at the discretion~~
 220 ~~of the board. Work experience acquired as a part of the~~
 221 ~~education requirement shall not be construed as experience in~~
 222 ~~responsible charge. The applicant must have applied to the~~
 223 ~~department for licensure on or before July 1, 2007.~~

224 Section 5. Subsection (1) of section 472.025, Florida
 225 Statutes, is amended to read:

226 472.025 Seals.—

227 (1) The board shall adopt, by rule, a form of seal to be
 228 used by all registrants holding valid certificates of
 229 registration, whether the registrants are corporations,
 230 partnerships, or individuals. Each registrant shall obtain a an
 231 ~~impression-type metal~~ seal in that form; and all final drawings,
 232 plans, specifications, plats, or reports prepared or issued by
 233 the registrant in accordance with the standards of practice
 234 established by the board shall be signed by the registrant,
 235 dated, and stamped with his or her seal. This signature, date,
 236 and seal shall be evidence of the authenticity of that to which
 237 they are affixed. Each registrant may in addition register his
 238 or her seal electronically in accordance with ss. 668.001-
 239 668.006. Drawings, plans, specifications, reports, or documents
 240 prepared or issued by a registrant may be transmitted
 241 electronically and may be signed by the registrant, dated, and
 242 stamped electronically with such seal in accordance with ss.
 243 668.001-668.006.

244 Section 6. Subsection (2) of section 472.0366, Florida
 245 Statutes, is amended to read:

246 472.0366 Elevation certificates; requirements for
 247 surveyors and mappers.—

248 (2) Beginning January 1, 2017, a surveyor and mapper
 249 shall, within 30 days after completion, submit to the division a
 250 copy of each elevation certificate that he or she completes. The

251 copy must be unaltered, except that the surveyor and mapper may
 252 redact the name of the property owner. The copy need not be
 253 signed and sealed when submitted to the division; however, an
 254 original signed and sealed copy must be retained in the surveyor
 255 and mapper's records as prescribed by rule of the board.

256 Section 7. Section 487.2041, Florida Statutes, is amended
 257 to read:

258 487.2041 Enforcement of federal worker protection
 259 regulations.—The department shall, to the extent that resources
 260 are available, continue to operate under the United States
 261 Environmental Protection Agency regulations regarding the
 262 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
 263 156, and the Worker Protection Standard, 40 C.F.R. part 170,
 264 which the department shall adopt ~~adopted~~ by rule ~~during the~~
 265 ~~1995-1996 fiscal year and published in the Florida~~
 266 ~~Administrative Code~~. Any provision of this part not preempted by
 267 federal law shall continue to apply.

268 Section 8. Subsection (13) of section 493.6101, Florida
 269 Statutes, is amended to read:

270 493.6101 Definitions.—

271 (13) "Manager" means any licensee who directs the
 272 activities of licensees at any agency or branch office. The
 273 manager shall be assigned to and shall primarily operate from
 274 the agency or branch office location for which he or she has
 275 been designated as manager. The manager of a private

276 investigative agency may, however, manage multiple private
 277 investigative agencies and branch offices.

278 Section 9. Paragraph (j) of subsection (3) and paragraph
 279 (a) of subsection (6) of section 493.6105, Florida Statutes, are
 280 amended to read:

281 493.6105 Initial application for license.—

282 (3) The application must contain the following information
 283 concerning the individual signing the application:

284 (j) A full set of fingerprints, a fingerprint processing
 285 fee, and a fingerprint retention fee. The fingerprint processing
 286 and retention fees shall be established by rule of the
 287 department based upon costs determined by state and federal
 288 agency charges and department processing costs, which must
 289 include the cost of retaining the fingerprints in the statewide
 290 automated biometric identification system established in s.
 291 943.05(2)(b) and the cost of enrolling the fingerprints in the
 292 national retained print arrest notification program as required
 293 under s. 493.6108. An applicant who has, within the immediately
 294 preceding 6 months, submitted such fingerprints and fees for
 295 licensing purposes under this chapter and who still holds a
 296 valid license is not required to submit another set of
 297 fingerprints or another fingerprint processing fee. An applicant
 298 who holds multiple licenses issued under this chapter is
 299 required to pay only a single fingerprint retention fee.

300 Partners and corporate officers who do not possess licenses

301 subject to renewal under s. 493.6113 are exempt from the
 302 fingerprnt retention requirements of this chapter.

303 (6) In addition to the requirements under subsection (3),
 304 an applicant for a Class "K" license must:

305 (a) Submit one of the following:

306 1. The Florida Criminal Justice Standards and Training
 307 Commission Instructor Certificate and written confirmation by
 308 the commission that the applicant possesses an active firearms
 309 certification.

310 2. A valid ~~The~~ National Rifle Association Private Security
 311 Firearm Instructor Certificate issued not more than 3 years
 312 before the submission of the applicant's Class "K" application.

313 3. A valid firearms instructor certificate issued by a
 314 federal law enforcement agency issued not more than 3 years
 315 before the submission of the applicant's Class "K" application.

316 Section 10. Subsection (1) of section 493.6107, Florida
 317 Statutes, is amended to read:

318 493.6107 Fees.—

319 (1) The department shall establish by rule examination and
 320 ~~biennial~~ license fees ~~which shall~~ not to exceed the following:

- 321 (a) Class "M" license—manager Class "AB" agency: \$75.
- 322 (b) Class "G" license—statewide firearm license: \$150.
- 323 (c) Class "K" license—firearms instructor: \$100.
- 324 (d) Fee for the examination for firearms instructor: \$75.

325 Section 11. Subsections (3) and (5) of section 493.6108,

326 Florida Statutes, are amended to read:

327 493.6108 Investigation of applicants by Department of
328 Agriculture and Consumer Services.—

329 (3) The department must also investigate the mental
330 history and current mental and emotional fitness of any Class
331 "G" or Class "K" applicant and may deny a Class "G" or Class "K"
332 license to anyone who has a history of mental illness or drug or
333 alcohol abuse. Notwithstanding s. 790.065(2)(a)4.f., the
334 Department of Law Enforcement is authorized, for the limited
335 purpose of determining eligibility of Class "G" or Class "K"
336 applicants and licensees under this chapter, to provide the
337 department with mental health and substance abuse data of
338 individuals who are prohibited from purchasing a firearm.

339 (5) A person licensed under this chapter must notify his
340 or her employer within 3 calendar days if he or she is arrested
341 for any offense. If the department receives information about an
342 arrest within the state of a person who holds a valid license
343 issued under this chapter for a crime that could potentially
344 disqualify the person from holding such a license, the
345 department must provide the arrest information to the agency
346 that employs the licensee.

347 Section 12. Section 493.6112, Florida Statutes, is amended
348 to read:

349 493.6112 Notification to Department of Agriculture and
350 Consumer Services of changes of partner or officer or

351 employees.-

352 (1) After filing the application, unless the department
 353 declines to issue the license or revokes it after issuance, an
 354 agency ~~or school~~ shall, within 5 working days of the withdrawal,
 355 removal, replacement, or addition of any or all partners or
 356 officers, notify and file with the department complete
 357 applications for such individuals. The agency's ~~or school's~~ good
 358 standing under this chapter shall be contingent upon the
 359 department's approval of any new partner or officer.

360 (2) Each agency ~~or school~~ shall, upon the employment or
 361 termination of employment of a licensee, report such employment
 362 or termination within 15 calendar days ~~immediately~~ to the
 363 department and, in the case of a termination, report the reason
 364 or reasons therefor. The report shall be submitted
 365 electronically in a manner ~~on a form~~ prescribed by the
 366 department.

367 Section 13. Paragraph (b) of subsection (3) of section
 368 493.6113, Florida Statutes, is amended to read:

369 493.6113 Renewal application for licensure.-

370 (3) Each licensee is responsible for renewing his or her
 371 license on or before its expiration by filing with the
 372 department an application for renewal accompanied by payment of
 373 the renewal fee and the fingerprint retention fee to cover the
 374 cost of ongoing retention in the statewide automated biometric
 375 identification system established in s. 943.05(2)(b). Upon the

376 first renewal of a license issued under this chapter before
 377 January 1, 2017, the licensee shall submit a full set of
 378 fingerprints and fingerprint processing fees to cover the cost
 379 of entering the fingerprints into the statewide automated
 380 biometric identification system pursuant to s. 493.6108(4)(a)
 381 and the cost of enrollment in the Federal Bureau of
 382 Investigation's national retained print arrest notification
 383 program. Subsequent renewals may be completed without submission
 384 of a new set of fingerprints.

385 (b) Each Class "G" licensee shall additionally submit
 386 proof that he or she has received during each year of the
 387 license period a minimum of 4 hours of firearms requa-
 388 ~~recertification~~ lification training taught by a Class "K" licensee and has
 389 complied with such other health and training requirements that
 390 the department shall adopt by rule. Proof of completion of
 391 firearms requa-
 392 ~~recertification~~ lification training shall be
 393 submitted to the department upon completion of the training. A
 394 Class "G" licensee must successfully complete this
 395 requa-
 396 ~~recertification~~ lification training for each type and caliber of firearm
 397 carried in the course of performing his or her regulated duties.
 398 If the licensee fails to complete the required 4 hours of annual
 399 training during the first year of the 2-year term of the
 400 license, the license shall be automatically suspended. The
 licensee must complete the minimum number of hours of range and
 classroom training required at the time of initial licensure and

401 submit proof of completion of such training to the department
 402 before the license may be reinstated. If the licensee fails to
 403 complete the required 4 hours of annual training during the
 404 second year of the 2-year term of the license, the licensee must
 405 complete the minimum number of hours of range and classroom
 406 training required at the time of initial licensure and submit
 407 proof of completion of such training to the department before
 408 the license may be renewed. The department may waive the
 409 firearms training requirement if:

410 1. The applicant provides proof that he or she is
 411 currently certified as a law enforcement officer or correctional
 412 officer under the Criminal Justice Standards and Training
 413 Commission and has completed law enforcement firearms
 414 requalification training annually during the previous 2 years of
 415 the licensure period;

416 2. The applicant provides proof that he or she is
 417 currently certified as a federal law enforcement officer and has
 418 received law enforcement firearms training administered by a
 419 federal law enforcement agency annually during the previous 2
 420 years of the licensure period; or

421 3. The applicant submits a valid firearm certificate among
 422 those specified in s. 493.6105(6)(a) and provides proof of
 423 having completed requalification training during the previous 2
 424 years of the licensure period.

425 Section 14. Subsection (4) of section 493.6115, Florida

426 Statutes, is amended, present paragraphs (b), (c), and (d) of
 427 subsection (12) of that section are redesignated as paragraphs
 428 (c), (d), and (e), respectively, and a new paragraph (b) is
 429 added to that subsection, to read:

430 493.6115 Weapons and firearms.—

431 (4) A Class "C" or Class "CC" licensee who is 21 years of
 432 age or older and ~~who~~ has also been issued a Class "G" license
 433 may carry, in the performance of her or his duties, a concealed
 434 firearm. A Class "D" licensee who is 21 years of age or older
 435 and ~~who~~ has also been issued a Class "G" license may carry a
 436 concealed firearm in the performance of her or his duties under
 437 the conditions specified in s. 493.6305(3) and (4) ~~493.6305(2)~~.
 438 The Class "G" license must ~~shall~~ clearly indicate such
 439 authority. The authority of any such licensee to carry a
 440 concealed firearm is ~~shall be~~ valid in any location throughout
 441 the state, ~~in any location,~~ while performing services within the
 442 scope of the license.

443 (12) The department may issue a temporary Class "G"
 444 license, on a case-by-case basis, if:

445 (b) The department has reviewed the mental health and
 446 substance abuse data provided by the Department of Law
 447 Enforcement as authorized in s. 493.6108(3) and has determined
 448 the applicant is not prohibited from licensure based upon this
 449 data.

450 Section 15. Subsection (1) of section 493.6118, Florida

451 Statutes, is amended, and subsections (8) and (9) are added to
 452 that section, to read:

453 493.6118 Grounds for disciplinary action.—

454 (1) The following constitute grounds for which
 455 disciplinary action specified in subsection (2) may be taken by
 456 the department against any licensee, agency, or applicant
 457 regulated by this chapter, or any unlicensed person engaged in
 458 activities regulated under this chapter:—

459 (a) Fraud or willful misrepresentation in applying for or
 460 obtaining a license.

461 (b) Use of any fictitious or assumed name by an agency
 462 unless the agency has department approval and qualifies under s.
 463 865.09.

464 (c) Being found guilty of or entering a plea of guilty or
 465 nolo contendere to, regardless of adjudication, or being
 466 convicted of a crime that directly relates to the business for
 467 which the license is held or sought. A plea of nolo contendere
 468 shall create a rebuttable presumption of guilt to the underlying
 469 criminal charges, and the department shall allow the individual
 470 being disciplined or denied an application for a license to
 471 present any mitigating circumstances surrounding his or her
 472 plea.

473 (d) A false statement by the licensee that any individual
 474 is or has been in his or her employ.

475 (e) A finding that the licensee or any employee is guilty

476 of willful betrayal of a professional secret or any unauthorized
 477 release of information acquired as a result of activities
 478 regulated under this chapter.

479 (f) Proof that the applicant or licensee is guilty of
 480 fraud or deceit, or of negligence, incompetency, or misconduct,
 481 in the practice of the activities regulated under this chapter.

482 (g) Conducting activities regulated under this chapter
 483 without a license or with a revoked or suspended license.

484 (h) Failure of the licensee to maintain in full force and
 485 effect the commercial general liability insurance coverage
 486 required by s. 493.6110.

487 (i) Impersonating, or permitting or aiding and abetting an
 488 employee to impersonate, a law enforcement officer or an
 489 employee of the state, the United States, or any political
 490 subdivision thereof by identifying himself or herself as a
 491 federal, state, county, or municipal law enforcement officer or
 492 official representative, by wearing a uniform or presenting or
 493 displaying a badge or credentials that would cause a reasonable
 494 person to believe that he or she is a law enforcement officer or
 495 that he or she has official authority, by displaying any
 496 flashing or warning vehicular lights other than amber colored,
 497 or by committing any act that is intended to falsely convey
 498 official status.

499 (j) Commission of an act of violence or the use of force
 500 on any person except in the lawful protection of one's self or

501 another from physical harm.

502 (k) Knowingly violating, advising, encouraging, or
 503 assisting the violation of any statute, court order, capias,
 504 warrant, injunction, or cease and desist order, in the course of
 505 business regulated under this chapter.

506 (l) Soliciting business for an attorney in return for
 507 compensation.

508 (m) Transferring or attempting to transfer a license
 509 issued pursuant to this chapter.

510 (n) Employing or contracting with any unlicensed or
 511 improperly licensed person or agency to conduct activities
 512 regulated under this chapter, or performing any act that
 513 assists, aids, or abets a person or business entity in engaging
 514 in unlicensed activity, when the licensure status was known or
 515 could have been ascertained by reasonable inquiry.

516 (o) Failure or refusal to cooperate with or refusal of
 517 access to an authorized representative of the department engaged
 518 in an official investigation pursuant to this chapter.

519 (p) Failure of any partner, principal corporate officer,
 520 or licensee to have his or her identification card in his or her
 521 possession while on duty.

522 (q) Failure of any licensee to have his or her license in
 523 his or her possession while on duty, as specified in s.
 524 493.6111(1).

525 (r) Failure or refusal by a sponsor to certify a biannual

526 written report on an intern or to certify completion or
 527 termination of an internship to the department within 15 working
 528 days.

529 (s) Failure to report to the department any person whom
 530 the licensee knows to be in violation of this chapter or the
 531 rules of the department.

532 (t) Violating any provision of this chapter.

533 (u) For a Class "G" licensee, failing to timely complete
 534 regualification ~~recertification~~ training as required in s.
 535 493.6113(3) (b).

536 (v) For a Class "K" licensee, failing to maintain active
 537 certification specified under s. 493.6105(6).

538 (w) For a Class "G" or a Class "K" applicant or licensee,
 539 being prohibited from purchasing or possessing a firearm by
 540 state or federal law.

541 (x) In addition to the grounds for disciplinary action
 542 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,
 543 Class "E" recovery agents, and Class "EE" recovery agent interns
 544 are prohibited from committing the following acts:

545 1. Recovering a motor vehicle, mobile home, motorboat,
 546 aircraft, personal watercraft, all-terrain vehicle, farm
 547 equipment, or industrial equipment that has been sold under a
 548 conditional sales agreement or under the terms of a chattel
 549 mortgage before authorization has been received from the legal
 550 owner or mortgagee.

551 2. Charging for expenses not actually incurred in
 552 connection with the recovery, transportation, storage, or
 553 disposal of repossessed property or personal property obtained
 554 in a repossession.

555 3. Using any repossessed property or personal property
 556 obtained in a repossession for the personal benefit of a
 557 licensee or an officer, director, partner, manager, or employee
 558 of a licensee.

559 4. Selling property recovered under the provisions of this
 560 chapter, except with written authorization from the legal owner
 561 or the mortgagee thereof.

562 5. Failing to notify the police or sheriff's department of
 563 the jurisdiction in which the repossessed property is recovered
 564 within 2 hours after recovery.

565 6. Failing to remit moneys collected in lieu of recovery
 566 of a motor vehicle, mobile home, motorboat, aircraft, personal
 567 watercraft, all-terrain vehicle, farm equipment, or industrial
 568 equipment to the client within 10 working days.

569 7. Failing to deliver to the client a negotiable
 570 instrument that is payable to the client, within 10 working days
 571 after receipt of such instrument.

572 8. Falsifying, altering, or failing to maintain any
 573 required inventory or records regarding disposal of personal
 574 property contained in or on repossessed property pursuant to s.
 575 493.6404(1).

576 9. Carrying any weapon or firearm when he or she is on
 577 private property and performing duties under his or her license
 578 whether or not he or she is licensed pursuant to s. 790.06.

579 10. Soliciting from the legal owner the recovery of
 580 property subject to repossession after such property has been
 581 seen or located on public or private property if the amount
 582 charged or requested for such recovery is more than the amount
 583 normally charged for such a recovery.

584 11. Wearing, presenting, or displaying a badge in the
 585 course of performing a repossession regulated by this chapter.

586 (y) Installation of a tracking device or tracking
 587 application in violation of s. 934.425.

588 (z) Failure of any licensee to notify his or her employer
 589 within 3 calendar days if he or she is arrested for any offense.

590 (8)(a) Upon notification by a law enforcement agency, a
 591 court, or the Department of Law Enforcement and upon subsequent
 592 written verification, the department shall temporarily suspend a
 593 Class "G" or Class "K" license if the licensee is arrested or
 594 charged with a firearms-related crime that would disqualify such
 595 person from licensure under this chapter. The department shall
 596 notify the licensee suspended under this section of his or her
 597 right to a hearing pursuant to chapter 120. A hearing conducted
 598 regarding the temporary suspension must be for the limited
 599 purpose of determining whether the licensee has been arrested or
 600 charged with a disqualifying firearms-related crime.

601 (b) If the criminal case results in a nondisqualifying
 602 disposition, the department shall issue an order lifting the
 603 suspension upon the licensee's submission of a certified copy of
 604 the final resolution to the department.

605 (c) If the criminal case results in a disqualifying
 606 disposition, the suspension remains in effect and the department
 607 shall proceed with revocation proceedings pursuant to chapter
 608 120.

609 (9) (a) Upon notification by a law enforcement agency, a
 610 court, or the Department of Law Enforcement and upon subsequent
 611 written verification, the department shall temporarily suspend a
 612 license if the licensee is arrested or charged with a forcible
 613 felony as defined in s. 776.08. The department shall notify the
 614 licensee suspended under this section of his or her right to a
 615 hearing pursuant to chapter 120. A hearing conducted regarding
 616 the temporary suspension must be for the limited purpose of
 617 determining whether the licensee has been arrested or charged
 618 with a forcible felony.

619 (b) If the criminal case results in a nondisqualifying
 620 disposition, the department shall issue an order lifting the
 621 suspension upon the licensee's submission of a certified copy of
 622 the final resolution to the department.

623 (c) If the criminal case results in a disqualifying
 624 disposition, the suspension remains in effect and the department
 625 shall proceed with revocation proceedings pursuant to chapter

626 120.

627 Section 16. Subsection (1) of section 493.6202, Florida
 628 Statutes, is amended to read:

629 493.6202 Fees.—

630 (1) The department shall establish by rule examination and
 631 ~~biennial~~ license fees, ~~which shall not to~~ to exceed the following:

632 (a) Class "A" license—private investigative agency: \$450.

633 (b) Class "AA" or "AB" license—branch office: \$125.

634 (c) Class "MA" license—private investigative agency
 635 manager: \$75.

636 (d) Class "C" license—private investigator: \$75.

637 (e) Class "CC" license—private investigator intern: \$60.

638 Section 17. Subsection (5) and paragraphs (b) and (c) of
 639 subsection (6) of section 493.6203, Florida Statutes, are
 640 amended to read:

641 493.6203 License requirements.—In addition to the license
 642 requirements set forth elsewhere in this chapter, each
 643 individual or agency shall comply with the following additional
 644 requirements:

645 (5) ~~Effective January 1, 2008,~~ An applicant for a Class
 646 "MA," Class "M," or Class "C" license must pass an examination
 647 that covers the provisions of this chapter and is administered
 648 by the department or by a provider approved by the department.
 649 The applicant must pass the examination before applying for
 650 licensure and must submit proof with the license application on

651 a form approved by rule of the department that he or she has
 652 passed the examination. The administrator of the examination
 653 shall verify the identity of each applicant taking the
 654 examination.

655 (a) The examination requirement in this subsection does
 656 not apply to an individual who holds a valid Class "CC," Class
 657 "C," Class "MA," or Class "M" license.

658 (b) Notwithstanding the exemption provided in paragraph
 659 (a), if the license of an applicant for relicensure has been
 660 invalid for more than 1 year, the applicant must take and pass
 661 the examination.

662 (c) The department shall establish by rule the content of
 663 the examination, the manner and procedure of its administration,
 664 and an examination fee that may not exceed \$100.

665 (6)

666 (b) ~~Effective January 1, 2012,~~ Before submission of an
 667 application to the department, the applicant for a Class "CC"
 668 license must have completed a minimum of 40 hours of
 669 professional training pertaining to general investigative
 670 techniques and this chapter, which course is offered by a state
 671 university or by a school, community college, college, or
 672 university under the purview of the Department of Education, and
 673 the applicant must pass an examination. ~~The training must be~~
 674 ~~provided in two parts, one 24-hour course and one 16-hour~~
 675 ~~course.~~ The certificate evidencing satisfactory completion of

676 the 40 hours of professional training must be submitted with the
 677 application for a Class "CC" license. The training specified in
 678 this paragraph may be provided by face-to-face presentation,
 679 online technology, or a home study course in accordance with
 680 rules and procedures of the Department of Education. The
 681 administrator of the examination must verify the identity of
 682 each applicant taking the examination.

683 1. Upon an applicant's successful completion of each part
 684 of the approved training and passage of any required
 685 examination, the school, community college, college, or
 686 university shall issue a certificate of completion to the
 687 applicant. The certificates must be on a form established by
 688 rule of the department.

689 2. The department shall establish by rule the general
 690 content of the professional training and the examination
 691 criteria.

692 3. If the license of an applicant for relicensure is
 693 invalid for more than 1 year, the applicant must complete the
 694 required training and pass any required examination.

695 (c) ~~An individual who submits an application for a Class~~
 696 ~~"CC" license on or after September 1, 2008, through December 31,~~
 697 ~~2011, who has not completed the 16-hour course must submit proof~~
 698 ~~of successful completion of the course within 180 days after the~~
 699 ~~date the application is submitted. If documentation of~~
 700 ~~completion of the required training is not submitted by that~~

701 ~~date, the individual's license shall be automatically suspended~~
 702 ~~until proof of the required training is submitted to the~~
 703 ~~department.~~ An individual licensed on or before August 31, 2008,
 704 is not required to complete additional training hours in order
 705 to renew an active license beyond the total required hours, and
 706 the timeframe for completion in effect at the time he or she was
 707 licensed applies.

708 Section 18. Subsection (1) of section 493.6302, Florida
 709 Statutes, is amended to read:

710 493.6302 Fees.—

711 (1) The department shall establish by rule ~~biennial~~
 712 license fees, which shall not to exceed the following:

- 713 (a) Class "B" license—security agency: \$450.
- 714 (b) Class "BB" or Class "AB" license—branch office: \$125.
- 715 (c) Class "MB" license—security agency manager: \$75.
- 716 (d) Class "D" license—security officer: \$45.
- 717 (e) Class "DS" license—security officer school or training
 718 facility: \$60.
- 719 (f) Class "DI" license—security officer school or training
 720 facility instructor: \$60.

721 Section 19. Subsection (4) of section 493.6303, Florida
 722 Statutes, is amended to read:

723 493.6303 License requirements.—In addition to the license
 724 requirements set forth elsewhere in this chapter, each
 725 individual or agency must comply with the following additional

726 requirements:

727 (4) (a) ~~Effective January 1, 2012,~~ An applicant for a Class
 728 "D" license must submit proof of successful completion of a
 729 minimum of 40 hours of professional training at a school or
 730 training facility licensed by the department. ~~The training must~~
 731 ~~be provided in two parts, one 24-hour course and one 16-hour~~
 732 ~~course.~~ The department shall by rule establish the general
 733 content and number of hours of each subject area to be taught.

734 (b) ~~An individual who submits an application for a Class~~
 735 ~~"D" license on or after January 1, 2007, through December 31,~~
 736 ~~2011, who has not completed the 16-hour course must submit proof~~
 737 ~~of successful completion of the course within 180 days after the~~
 738 ~~date the application is submitted. If documentation of~~
 739 ~~completion of the required training is not submitted by that~~
 740 ~~date, the individual's license shall be automatically suspended~~
 741 ~~until proof of the required training is submitted to the~~
 742 ~~department. A person licensed before January 1, 2007, is not~~
 743 ~~required to complete additional training hours in order to renew~~
 744 ~~an active license beyond the total required hours, and the~~
 745 ~~timeframe for completion in effect at the time he or she was~~
 746 ~~licensed applies.~~

747 ~~(c)~~ Upon reapplication for a license, an individual whose
 748 license has been ~~is suspended or revoked pursuant to paragraph~~
 749 ~~(b), or is expired for at least 1 year or more,~~ is considered,
 750 ~~upon reapplication for a license,~~ an initial applicant and must

751 submit proof of successful completion of 40 hours of
 752 professional training at a school or training facility licensed
 753 by the department as provided in paragraph (a) before a license
 754 is issued.

755 Section 20. Subsection (1) of section 493.6304, Florida
 756 Statutes, is amended to read:

757 493.6304 Security officer school or training facility.—

758 (1) Any school, training facility, or instructor who
 759 offers the training specified ~~outlined~~ in s. 493.6303(4) for
 760 Class "D" applicants shall, before licensure of such school,
 761 training facility, or instructor, file with the department an
 762 application accompanied by an application fee in an amount to be
 763 determined by rule, not to exceed \$60. The fee is ~~shall~~ not ~~be~~
 764 refundable.

765 Section 21. Subsection (1) of section 493.6402, Florida
 766 Statutes, is amended to read:

767 493.6402 Fees.—

768 (1) The department shall establish by rule ~~biennial~~
 769 license fees ~~that shall~~ not to exceed the following:

- 770 (a) Class "R" license—recovery agency: \$450.
- 771 (b) Class "RR" license—branch office: \$125.
- 772 (c) Class "MR" license—recovery agency manager: \$75.
- 773 (d) Class "E" license—recovery agent: \$75.
- 774 (e) Class "EE" license—recovery agent intern: \$60.
- 775 (f) Class "RS" license—recovery agent school or training

776 facility: \$60.

777 (g) Class "RI" license-recovery agent school or training
778 facility instructor: \$60.

779 Section 22. Subsection (2) of section 493.6403, Florida
780 Statutes, is amended to read:

781 493.6403 License requirements.--

782 (2) ~~Beginning October 1, 1994,~~ An applicant for a Class
783 "E" or a Class "EE" license must submit proof of successful
784 completion ~~have completed a minimum~~ of 40 hours of professional
785 training at a school or training facility licensed by the
786 department. The department shall by rule establish the general
787 content for the training.

788 Section 23. Subsection (6) is added to section 501.013,
789 Florida Statutes, to read:

790 501.013 Health studios; exemptions.--The following
791 businesses or activities may be declared exempt from the
792 provisions of ss. 501.012-501.019 upon the filing of an
793 affidavit with the department establishing that the stated
794 qualifications are met:

795 (6) A program or facility that is offered by an
796 organization for the exclusive use of its employees and their
797 family members.

798 Section 24. Paragraph (a) of subsection (3) of section
799 501.059, Florida Statutes, is amended to read:

800 501.059 Telephone solicitation.--

801 (3) (a) If any residential, mobile, or telephonic paging
 802 device telephone subscriber notifies the department of his or
 803 her desire to be placed on a "no sales solicitation calls"
 804 listing indicating that the subscriber does not wish to receive
 805 unsolicited telephonic sales calls, the department shall place
 806 the subscriber on that listing ~~for 5 years~~.

807 Section 25. Paragraph (a) of subsection (1) and subsection
 808 (3) of section 507.04, Florida Statutes, are amended to read:

809 507.04 Required insurance coverages; liability
 810 limitations; valuation coverage.—

811 (1) LIABILITY INSURANCE.—

812 (a)1. Except as provided in paragraph (b), each mover
 813 operating in this state must maintain current and valid
 814 liability insurance coverage of at least \$10,000 per shipment
 815 for the loss or damage of household goods resulting from the
 816 negligence of the mover or its employees or agents.

817 2. The mover must provide the department with evidence of
 818 liability insurance coverage before the mover is registered with
 819 the department under s. 507.03. All insurance coverage
 820 maintained by a mover must remain in effect throughout the
 821 mover's registration period. A mover's failure to maintain
 822 insurance coverage in accordance with this paragraph constitutes
 823 an immediate threat to the public health, safety, and welfare.

824 ~~If a mover fails to maintain insurance coverage, the department~~
 825 ~~may immediately suspend the mover's registration or eligibility~~

826 ~~for registration, and the mover must immediately cease operating~~
 827 ~~as a mover in this state. In addition, and notwithstanding the~~
 828 ~~availability of any administrative relief pursuant to chapter~~
 829 ~~120, the department may seek from the appropriate circuit court~~
 830 ~~an immediate injunction prohibiting the mover from operating in~~
 831 ~~this state until the mover complies with this paragraph, a civil~~
 832 ~~penalty not to exceed \$5,000, and court costs.~~

833 (3) INSURANCE COVERAGES.—The insurance coverages required
 834 under paragraph (1)(a) and subsection (2) must be issued by an
 835 insurance company or carrier licensed to transact business in
 836 this state under the Florida Insurance Code as designated in s.
 837 624.01. The department shall require a mover to present a
 838 certificate of insurance of the required coverages before
 839 issuance or renewal of a registration certificate under s.
 840 507.03. The department shall be named as a certificateholder in
 841 the certificate and must be notified at least 10 days before
 842 cancellation of insurance coverage. If a mover fails to maintain
 843 insurance coverage, the department may immediately suspend the
 844 mover's registration or eligibility for registration, and the
 845 mover must immediately cease operating as a mover in this state.
 846 In addition, and notwithstanding the availability of any
 847 administrative relief pursuant to chapter 120, the department
 848 may seek from the appropriate circuit court an immediate
 849 injunction prohibiting the mover from operating in this state
 850 until the mover complies with this section, a civil penalty not

851 | to exceed \$5,000, and court costs.

852 | Section 26. Subsection (1) of section 531.37, Florida
853 | Statutes, is amended to read:

854 | 531.37 Definitions.—As used in this chapter:

855 | (1) "Weights and measures" means all weights and measures
856 | of every kind, instruments, and devices for weighing and
857 | measuring, and any appliance and accessories associated with any
858 | or all such instruments and devices, excluding taximeters,
859 | digital networks, and those weights and measures used for the
860 | purpose of inspecting the accuracy of devices used in
861 | conjunction with aviation fuel.

862 | Section 27. Subsection (1) of section 531.61, Florida
863 | Statutes, is amended to read:

864 | 531.61 Exemptions from permit requirement.—Commercial
865 | weights or measures instruments or devices are exempt from the
866 | requirements of ss. 531.60-531.66 if:

867 | ~~(1) The device is a taximeter that is licensed, permitted,~~
868 | ~~or registered by a municipality, county, or other local~~
869 | ~~government and is tested for accuracy and compliance with state~~
870 | ~~standards by the local government in cooperation with the state~~
871 | ~~as authorized in s. 531.421.~~

872 | Section 28. Paragraph (g) of subsection (2) of section
873 | 531.63, Florida Statutes, is amended to read:

874 | 531.63 Maximum permit fees.—The commercial use permit fees
875 | established for weights or measures instruments or devices shall

876 be in an amount necessary to administer this chapter but may not
 877 exceed the amounts provided in this section.

878 (2) For other measuring devices, the annual permit fees
 879 per device may not exceed the following:

880 ~~(g) Taximeters — \$50.~~

881 Section 29. Section 534.021, Florida Statutes, is amended
 882 to read:

883 534.021 Recording of marks or brands.—The department shall
 884 be the recorder of livestock marks or brands, and the marks or
 885 brands may not be recorded elsewhere in the state. Any livestock
 886 owner who uses a mark or brand to identify her or his livestock
 887 must register the mark or brand by applying to the department.
 888 The application must be made on a form prescribed by the
 889 department and must be accompanied by a detailed drawing
 890 ~~facsimile~~ of the brand applied for and a statement identifying
 891 the county in which the applicant has or expects to have
 892 livestock bearing the mark or brand to be recorded. The
 893 department shall, upon its satisfaction that the application
 894 meets the requirements of this chapter, record the mark or brand
 895 for exclusive statewide use by the applicant. If an application
 896 is made to record a mark or brand previously recorded, the
 897 department shall determine whether the county in which the mark
 898 or brand will be used is near enough to another county in which
 899 the previously recorded mark or brand is used to cause confusion
 900 or to aid theft or dishonesty, and if so, the department must

901 decline to admit to record the mark or brand. If a conflict
 902 arises between the owner of any recorded mark or brand and
 903 another claiming the right to record the same mark or brand, the
 904 department must give preference to the present owner. The
 905 department shall charge and collect at the time of recording a
 906 fee of \$10 for each mark or brand. A person may not use any mark
 907 or brand to which another has a prior right of record. It is
 908 unlawful to brand any animal with a brand not registered with
 909 the department.

910 Section 30. Section 534.041, Florida Statutes, is amended
 911 to read:

912 534.041 Renewal of certificate of mark or brand.—The
 913 registration of a mark or brand entitles the registered owner to
 914 exclusive ownership and use of the mark or brand for a period
 915 ending at midnight on the last day of the month 10 ~~5~~ years after
 916 ~~from~~ the date of registration. Upon application, registration
 917 may be renewed, ~~upon application and payment of a renewal fee of~~
 918 ~~\$5,~~ for successive 10-year ~~5-year~~ periods, each ending at
 919 midnight on the last day of the month 10 ~~5~~ years after ~~from~~ the
 920 date of renewal. At least 60 days before ~~prior to~~ the expiration
 921 of a registration, the department shall notify by letter the
 922 registered owner of the mark or brand that, upon application for
 923 renewal and payment of the renewal fee, the department will
 924 issue a renewal certificate granting the registered owner
 925 exclusive ownership and use of the mark or brand for another 10-

926 year ~~5-year~~ period ending at midnight on the last day of the
 927 month 10 ~~5~~ years after ~~from~~ the date of renewal. Failure to make
 928 application for renewal within the month of expiration of a
 929 registration will cause the department to send a second notice
 930 to the registered owner by mail at her or his last known
 931 address. Failure of the registered owner to make application for
 932 renewal within 30 days after receipt of the second notice will
 933 cause the owner's mark or brand to be placed on an inactive list
 934 for a period of 12 months, after which it will be canceled and
 935 become subject to registration by another person.

936 Section 31. Section 534.061, Florida Statutes, is
 937 repealed.

938 Section 32. Subsection (1) of section 573.118, Florida
 939 Statutes, is amended to read:

940 573.118 Assessment; funds; review of accounts; loans.—

941 (1) To provide funds to defray the necessary expenses
 942 incurred by the department in the formulation, issuance,
 943 administration, and enforcement of any marketing order, every
 944 person engaged in the production, distributing, or handling of
 945 agricultural commodities within this state, and directly
 946 affected by any marketing order, shall pay to the department, at
 947 such times and in such installments as the department may
 948 prescribe, such person's pro rata share of necessary expenses.
 949 Each person's share of expenses shall be that proportion which
 950 the total volume of agricultural commodities produced,

951 distributed, or handled by the person during the current
 952 marketing season, or part thereof covered by such marketing
 953 order, is of the total volume of the commodities produced,
 954 distributed, or handled by all such persons during the same
 955 current marketing season or part thereof. The department, after
 956 receiving the recommendations of the advisory council, shall fix
 957 the rate of assessment on the volume of agricultural commodities
 958 sold or some other equitable basis. For convenience of
 959 collection, upon request of the department, handlers of the
 960 commodities shall pay any producer assessments. Handlers paying
 961 assessments for and on behalf of any producers may collect the
 962 producer assessments from any moneys owed by the handlers to the
 963 producers. The collected assessments shall be deposited into the
 964 appropriate trust fund and used for the sole purpose of
 965 implementing the marketing order for which the assessment was
 966 collected. The department is not subject to s. 287.057 in the
 967 expenditure of these funds. However, the director of the
 968 Division of Fruit and Vegetables ~~Marketing and Development~~ shall
 969 file with the internal auditor of the department a certification
 970 of conditions and circumstances justifying each contract or
 971 agreement entered into without competitive bidding.

972 Section 33. Paragraph (b) of subsection (4) of section
 973 590.02, Florida Statutes, is amended to read:

974 590.02 Florida Forest Service; powers, authority, and
 975 duties; liability; building structures; Withlacoochee Training

976 Center.—

977 (4)

978 (b) Notwithstanding s. 553.80(1), the department shall
 979 exclusively enforce the Florida Building Code as it pertains to
 980 wildfire, ~~and law enforcement,~~ and other Florida Forest Service
 981 facilities under the jurisdiction of the department.

982 Section 34. Paragraph (a) of subsection (5) of section
 983 597.004, Florida Statutes, is amended to read:

984 597.004 Aquaculture certificate of registration.—

985 (5) SALE OF AQUACULTURE PRODUCTS.—

986 (a) Aquaculture products, except shellfish, snook, and any
 987 fish of the genus *Micropterus*, and prohibited and restricted
 988 freshwater and marine species identified by rules of the Fish
 989 and Wildlife Conservation Commission, may be sold by an
 990 aquaculture producer certified pursuant to this section or by a
 991 dealer licensed pursuant to part VII of chapter 379 without
 992 restriction so long as the product origin can be identified.

993 Section 35. Subsection (2) of section 604.16, Florida
 994 Statutes, is amended to read:

995 604.16 Exceptions to provisions of ss. 604.15-604.34.—

996 Except for s. 604.22(2), the provisions of ss. 604.15-604.34 do
 997 not apply to:

998 (2) A dealer in agricultural products who pays at the time
 999 of purchase with United States cash currency or a cash
 1000 equivalent, such as a money order, cashier's check, wire

1001 transfer, electronic funds transfer, or PIN-based debit
 1002 transaction, or who pays with a credit card as defined in s.
 1003 658.995(2)(a).

1004 Section 36. Subsections (2) and (4) and paragraph (b) of
 1005 subsection (5) of section 790.06, Florida Statutes, are amended
 1006 to read:

1007 790.06 License to carry concealed weapon or firearm.—

1008 (2) The Department of Agriculture and Consumer Services
 1009 shall issue a license if the applicant:

1010 (a) Is a resident of the United States and a citizen of
 1011 the United States or a permanent resident alien of the United
 1012 States, as determined by the United States Bureau of Citizenship
 1013 and Immigration Services, or is a consular security official of
 1014 a foreign government that maintains diplomatic relations and
 1015 treaties of commerce, friendship, and navigation with the United
 1016 States and is certified as such by the foreign government and by
 1017 the appropriate embassy in this country;

1018 (b) Is 21 years of age or older;

1019 (c) Does not suffer from a physical infirmity which
 1020 prevents the safe handling of a weapon or firearm;

1021 (d) Is not ineligible to possess a firearm pursuant to s.
 1022 790.23 by virtue of having been convicted of a felony;

1023 (e) Has not been: ~~committed for the abuse of a controlled~~
 1024 ~~substance or been~~

1025 1. Found guilty of a crime under the provisions of chapter

1026 893 or similar laws of any other state relating to controlled
 1027 substances within a 3-year period immediately preceding the date
 1028 on which the application is submitted; or

1029 2. Committed for the abuse of a controlled substance under
 1030 chapter 397 or under the provisions of former chapter 396 or
 1031 similar laws of any other state. An applicant who has been
 1032 granted relief from firearms disabilities pursuant to s.
 1033 790.065(2)(a)4.d. or pursuant to the law of the state in which
 1034 the commitment occurred is deemed not to be committed for the
 1035 abuse of a controlled substance under this subparagraph;

1036 (f) Does not chronically and habitually use alcoholic
 1037 beverages or other substances to the extent that his or her
 1038 normal faculties are impaired. It shall be presumed that an
 1039 applicant chronically and habitually uses alcoholic beverages or
 1040 other substances to the extent that his or her normal faculties
 1041 are impaired if the applicant has been ~~committed under chapter~~
 1042 ~~397 or under the provisions of former chapter 396 or has been~~
 1043 convicted under s. 790.151 or has been deemed a habitual
 1044 offender under s. 856.011(3), or has had two or more convictions
 1045 under s. 316.193 or similar laws of any other state, within the
 1046 3-year period immediately preceding the date on which the
 1047 application is submitted;

1048 (g) Desires a legal means to carry a concealed weapon or
 1049 firearm for lawful self-defense;

1050 (h) Demonstrates competence with a firearm by any one of

- 1051 the following:
- 1052 1. Completion of any hunter education or hunter safety
 - 1053 course approved by the Fish and Wildlife Conservation Commission
 - 1054 or a similar agency of another state;
 - 1055 2. Completion of any National Rifle Association firearms
 - 1056 safety or training course;
 - 1057 3. Completion of any firearms safety or training course or
 - 1058 class available to the general public offered by a law
 - 1059 enforcement agency, junior college, college, or private or
 - 1060 public institution or organization or firearms training school,
 - 1061 using instructors certified by the National Rifle Association,
 - 1062 Criminal Justice Standards and Training Commission, or the
 - 1063 Department of Agriculture and Consumer Services;
 - 1064 4. Completion of any law enforcement firearms safety or
 - 1065 training course or class offered for security guards,
 - 1066 investigators, special deputies, or any division or subdivision
 - 1067 of a law enforcement agency or security enforcement;
 - 1068 5. Presents evidence of equivalent experience with a
 - 1069 firearm through participation in organized shooting competition
 - 1070 or military service;
 - 1071 6. Is licensed or has been licensed to carry a firearm in
 - 1072 this state or a county or municipality of this state, unless
 - 1073 such license has been revoked for cause; or
 - 1074 7. Completion of any firearms training or safety course or
 - 1075 class conducted by a state-certified or National Rifle

1076 Association certified firearms instructor;
 1077
 1078 A photocopy of a certificate of completion of any of the courses
 1079 or classes; an affidavit from the instructor, school, club,
 1080 organization, or group that conducted or taught such course or
 1081 class attesting to the completion of the course or class by the
 1082 applicant; or a copy of any document that shows completion of
 1083 the course or class or evidences participation in firearms
 1084 competition shall constitute evidence of qualification under
 1085 this paragraph. A person who conducts a course pursuant to
 1086 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as
 1087 an instructor, attests to the completion of such courses, must
 1088 maintain records certifying that he or she observed the student
 1089 safely handle and discharge the firearm in his or her physical
 1090 presence and that the discharge of the firearm included live
 1091 fire using a firearm and ammunition as defined in s. 790.001;
 1092 (i) Has not been adjudicated an incapacitated person under
 1093 s. 744.331, or similar laws of any other state. An applicant who
 1094 has been granted relief from firearms disabilities pursuant to
 1095 s. 790.065(2)(a)4.d. or pursuant to the law of the state in
 1096 which the adjudication occurred is deemed not to have been
 1097 adjudicated an incapacitated person under this paragraph, unless
 1098 ~~5 years have elapsed since the applicant's restoration to~~
 1099 ~~capacity by court order;~~
 1100 (j) Has not been committed to a mental institution under

1101 | chapter 394, or similar laws of any other state. An applicant
 1102 | who has been granted relief from firearms disabilities pursuant
 1103 | to s. 790.065(2)(a)4.d. or pursuant to the law of the state in
 1104 | which the commitment occurred is deemed not to have been
 1105 | committed in a mental institution under this paragraph, ~~unless~~
 1106 | ~~the applicant produces a certificate from a licensed~~
 1107 | ~~psychiatrist that he or she has not suffered from disability for~~
 1108 | ~~at least 5 years before the date of submission of the~~
 1109 | ~~application;~~

1110 | (k) Has not had adjudication of guilt withheld or
 1111 | imposition of sentence suspended on any felony unless 3 years
 1112 | have elapsed since probation or any other conditions set by the
 1113 | court have been fulfilled, or expunction has occurred;

1114 | (l) Has not had adjudication of guilt withheld or
 1115 | imposition of sentence suspended on any misdemeanor crime of
 1116 | domestic violence unless 3 years have elapsed since probation or
 1117 | any other conditions set by the court have been fulfilled, or
 1118 | the record has been expunged;

1119 | (m) Has not been issued an injunction that is currently in
 1120 | force and effect and that restrains the applicant from
 1121 | committing acts of domestic violence or acts of repeat violence;
 1122 | and

1123 | (n) Is not prohibited from purchasing or possessing a
 1124 | firearm by any other provision of Florida or federal law.

1125 | (4) The application shall be completed, under oath, on a

1126 form adopted by the Department of Agriculture and Consumer
 1127 Services and shall include:

1128 (a) The name, address, place of birth, date of birth, and
 1129 race of the applicant;

1130 (b) A statement that the applicant is in compliance with
 1131 criteria contained within subsections (2) and (3);

1132 (c) A statement that the applicant has been furnished a
 1133 copy of or a website link to this chapter and is knowledgeable
 1134 of its provisions;

1135 (d) A conspicuous warning that the application is executed
 1136 under oath and that a false answer to any question, or the
 1137 submission of any false document by the applicant, subjects the
 1138 applicant to criminal prosecution under s. 837.06;

1139 (e) A statement that the applicant desires a concealed
 1140 weapon or firearms license as a means of lawful self-defense;
 1141 and

1142 (f) Directions for an applicant who is a servicemember, as
 1143 defined in s. 250.01, or a veteran, as defined in s. 1.01, to
 1144 request expedited processing of his or her application.

1145 (5) The applicant shall submit to the Department of
 1146 Agriculture and Consumer Services or an approved tax collector
 1147 pursuant to s. 790.0625:

1148 (b) A nonrefundable license fee of up to \$55 ~~\$60~~ if he or
 1149 she has not previously been issued a statewide license or of up
 1150 to \$45 ~~\$50~~ for renewal of a statewide license. The cost of

1151 processing fingerprints as required in paragraph (c) shall be
 1152 borne by the applicant. However, an individual holding an active
 1153 certification from the Criminal Justice Standards and Training
 1154 Commission as a law enforcement officer, correctional officer,
 1155 or correctional probation officer as defined in s. 943.10(1),
 1156 (2), (3), (6), (7), (8), or (9) is exempt from the licensing
 1157 requirements of this section. If such individual wishes to
 1158 receive a concealed weapon or firearm license, he or she is
 1159 exempt from the background investigation and all background
 1160 investigation fees but must pay the current license fees
 1161 regularly required to be paid by nonexempt applicants. Further,
 1162 a law enforcement officer, a correctional officer, or a
 1163 correctional probation officer as defined in s. 943.10(1), (2),
 1164 or (3) is exempt from the required fees and background
 1165 investigation for 1 year after his or her retirement.

1166 Section 37. This act shall take effect July 1, 2017.

COMMERCE COMMITTEE

CS/HB 467 by Rep. Raburn Department of Agriculture & Consumer Services

AMENDMENT SUMMARY March 29, 2017

Amendment 1 by Rep. Raburn (Line 133):

Revises the following provisions related to Surveyors and Mappers:

Exempts a contracted person from the surveying and mapping regulations of Chapter 472, if the person is under the supervision of, and subordinate to, a registered surveyor or mapper. The supervision must meet standards adopted by rule by the Board of Professional Surveyors and Mappers.

Clarifies the academic degree required as a prerequisite for the licensure examination to practice surveying and mapping.

Specifies the academic degree, course hours, and/or work experience required as a prerequisite for the surveyor and mapper intern examination.

Authorizes the Board of Professional Surveyors and Mappers to provide by rule the carryover of not more than 12 hours of continuing education hours for each renewal cycle.

Maintains the following provisions related to Surveyors and Mappers currently in the bill:

Clarifies that the practice of surveying and mapping includes, but is not limited to, orientation of real property and attached personal property, and adds volume to the list of measurable facts that are used by surveyors and mappers.

Deletes an obsolete provision related to photogrammetrists.

Amendment 2 by Rep. Raburn (Line 276):

The bill allows a manager of a private investigative agency to manage multiple private investigative agencies and branch offices. The amendment further specifies that a private investigative agency manager may manage up to three offices within a 150-mile radius of the main office location.

Amendment 3 by Rep. Raburn (Line 859):

The bill excludes digital networks from the definition of weights and measures. The amendment instead excludes transportation measurement systems from the definition of weights and measures.

Amendment 4 by Rep. Raburn (Line 937):

Authorizes the Department to perform food safety inspection services where raw agricultural commodities are grown, produced, harvested, held, packed, or repacked.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Commerce Committee

2 Representative Raburn offered the following:

4 **Amendment (with title amendment)**

5 Remove lines 133-223 and insert:

6 Section 2. Paragraph (d) is added to subsection (5) of section
7 472.003, Florida Statutes, to read:

8 472.003 Persons not affected by ss. 472.001-472.037.-

9 Sections 472.001-472.037 do not apply to:

10 (5)

11 (d) Persons who are under contract with an individual
12 registered or legal entity certified under this chapter and who
13 are under the supervision of and subordinate to a person in
14 responsible charge registered under this chapter, to the extent
15 that such supervision meets standards adopted by rule by the
16 board.

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17 Section 3. Subsections (4) and (10) of section 472.005,
18 Florida Statutes, are amended to read:

19 472.005 Definitions.—As used in ss. 472.001-472.037:

20 (4) (a) "Practice of surveying and mapping" means, among
21 other things, any professional service or work, the adequate
22 performance of which involves the application of special
23 knowledge of the principles of mathematics, the related physical
24 and applied sciences, and the relevant requirements of law for
25 adequate evidence of the act of measuring, locating,
26 establishing, or reestablishing lines, angles, elevations,
27 natural and manmade features in the air, on the surface and
28 immediate subsurface of the earth, within underground workings,
29 and on the beds or surface of bodies of water, for the purpose
30 of determining, establishing, describing, displaying, or
31 interpreting the facts of size, volume, shape, topography, tidal
32 datum planes, and legal or geodetic location or relocation, ~~and~~
33 ~~orientation of improved or unimproved real property and~~
34 ~~appurtenances thereto, including acreage and condominiums.~~

35 (b) The practice of surveying and mapping also includes,
36 but is not limited to, photogrammetric control; orientation of
37 improved or unimproved real property and appurtenances and
38 personal property attached thereto, including acreage and
39 condominiums; the monumentation and remonumentation of property
40 boundaries and subdivisions; the measurement of and preparation
41 of plans showing existing improvements after construction; the

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42 layout of proposed improvements; the preparation of descriptions
43 for use in legal instruments of conveyance of real property and
44 property rights; the preparation of subdivision planning maps
45 and record plats, as provided for in chapter 177; the
46 determination of, but not the design of, grades and elevations
47 of roads and land in connection with subdivisions or divisions
48 of land; and the creation and perpetuation of alignments related
49 to maps, record plats, field note records, reports, property
50 descriptions, and plans and drawings that represent them.

51 (10) "Subordinate" means a person ~~an employee~~ who performs
52 work under the direction, supervision, and responsible charge of
53 a person who is registered under this chapter.

54 Section 4. Subsections (2) and (3) of section 472.013,
55 Florida Statutes, are amended to read:

56 472.013 Examinations, prerequisites.—

57 (2) An applicant shall be entitled to take the licensure
58 examination to practice in this state as a surveyor and mapper
59 if the applicant is of good moral character and has satisfied
60 one of the following requirements:

61 (a) The applicant has received a bachelor's degree, its
62 equivalent, or higher in surveying and mapping or a similarly
63 titled program, including, but not limited to, geomatics,
64 geomatics engineering, and land surveying, ~~of 4 years or more in~~
65 ~~a surveying and mapping degree program~~ from a college or
66 university recognized by the board and has a specific experience

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67 record of 4 or more years as a subordinate to a professional
68 surveyor and mapper in the active practice of surveying and
69 mapping, which experience is of a nature indicating that the
70 applicant was in responsible charge of the accuracy and
71 correctness of the surveying and mapping work performed. ~~The~~
72 ~~completed surveying and mapping degree of 4 years or more in a~~
73 ~~surveying and mapping degree program must have included not~~
74 ~~fewer than 32 semester hours of study, or its academic~~
75 ~~equivalent, in the science of surveying and mapping or in board-~~
76 ~~approved surveying and mapping related courses.~~ Work experience
77 acquired as a part of the education requirement may ~~shall~~ not be
78 construed as experience in responsible charge.

79 (b) The applicant has received a bachelor's degree, its
80 equivalent, or higher in a ~~is a graduate of a 4-year~~ course of
81 study, other than in surveying and mapping, at an accredited
82 college or university and has a specific experience record of 6
83 or more years as a subordinate to a registered surveyor and
84 mapper in the active practice of surveying and mapping, 5 years
85 of which shall be of a nature indicating that the applicant was
86 in responsible charge of the accuracy and correctness of the
87 surveying and mapping work performed. ~~The course of study in~~
88 ~~disciplines other than surveying and mapping must have included~~
89 ~~not fewer than 32 semester hours of study or its academic~~
90 ~~equivalent.~~ The applicant must have completed a minimum of 25
91 semester hours from a college or university approved by the

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92 board in surveying and mapping subjects or in any combination of
93 courses in civil engineering, surveying, mapping, mathematics,
94 photogrammetry, forestry, or land law and the physical sciences.
95 Any of the required 25 semester hours of study completed not as
96 a part of the bachelor's degree, its equivalent, or higher may
97 ~~4-year course of study shall~~ be approved at the discretion of
98 the board. Work experience acquired as a part of the education
99 requirement may shall not be construed as experience in
100 responsible charge.

101 (3) A person shall be entitled to take an examination for
102 the purpose of determining whether he or she is qualified ~~to~~
103 ~~practice in this state~~ as a surveyor and mapper intern if:

104 (a) The person is in good standing in, or is a graduate
105 of, a bachelor degree program, its equivalent or higher, at an
106 accredited college or university and has obtained a minimum of
107 25 semester hours in surveying, mapping, mathematics,
108 photogrammetry, forestry, civil engineering, or land law and the
109 physical sciences, or any combination thereof; or

110 (b) The person has obtained, from an accredited college or
111 university, a minimum of 15 semester hours in surveying,
112 mapping, mathematics, photogrammetry, forestry, civil
113 engineering, or land law and the physical sciences, or any
114 combination thereof, and has a specific surveying and mapping
115 experience record of 2 or more years as a subordinate to a
116 registered surveyor and mapper.



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117
118 This subsection may not be construed as a substitute for the
119 degree requirement to take the exams for licensure as outlined
120 in subsection (2) the person is in the final year, or is a
121 graduate, of an approved surveying and mapping curriculum in a
122 school that has been approved by the board.

123 Section 5. Paragraph (a) of subsection (5) of section
124 472.015, Florida Statutes, is amended to read:

125 472.015 Licensure.—

126 (5)(a) The board shall certify as qualified for a license
127 by endorsement an applicant who, at the time of application:

128 1. Holds a valid license to practice surveying and mapping
129 issued before ~~prior to~~ July 1, 1999, by another state or
130 territory of the United States; has passed a national, regional,
131 state, or territorial licensing examination that is
132 substantially equivalent to the examination required by s.
133 472.013; and has a specific experience record of at least 8
134 years as a subordinate to a registered surveyor and mapper in
135 the active practice of surveying and mapping, 6 years of which
136 must be of a nature indicating that the applicant was in
137 responsible charge of the accuracy and correctness of the
138 surveying and mapping work performed; or

139 2. Holds a valid license to practice surveying and mapping
140 issued by another state or territory of the United States if the
141 criteria for issuance of the license were substantially the same

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142 as the licensure criteria that existed in Florida at the time
143 the license was issued. ~~† or~~

144 ~~3. Is a practicing photogrammetrist who holds the~~
145 ~~Certified Photogrammetrist designation of the American Society~~
146 ~~for Photogrammetry and Remote Sensing and held such designation~~
147 ~~on or before July 1, 2005; is a graduate of a 4-year course of~~
148 ~~study at an accredited college or university; and has a specific~~
149 ~~experience record of 6 or more years as a subordinate to a~~
150 ~~Certified Photogrammetrist of the American Society for~~
151 ~~Photogrammetry and Remote Sensing in the active practice of~~
152 ~~surveying and mapping, 5 years of which shall be of a nature~~
153 ~~indicating that the applicant was in responsible charge of the~~
154 ~~accuracy and correctness of the surveying and mapping work~~
155 ~~performed. The course of study must have included not fewer than~~
156 ~~32 semester hours of study or its academic equivalent. The~~
157 ~~applicant must have completed a minimum of 25 semester hours~~
158 ~~from a college or university approved by the board in surveying~~
159 ~~and mapping subjects or in any combination of courses in civil~~
160 ~~engineering, surveying, mapping, mathematics, photogrammetry,~~
161 ~~forestry, or land law and the physical sciences. Any of the~~
162 ~~required 25 semester hours of study completed not as a part of~~
163 ~~the 4-year course of study shall be approved at the discretion~~
164 ~~of the board. Work experience acquired as a part of the~~
165 ~~education requirement shall not be construed as experience in~~
166 ~~responsible charge. The applicant must have applied to the~~

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167 ~~department for licensure on or before July 1, 2007.~~

168 Section 6. Section 472.018, Florida Statutes, is amended
169 to read:

170 472.018 Continuing education.—The department may not renew
171 a license until the licensee submits proof satisfactory to the
172 board that during the 2 years before her or his application for
173 renewal the licensee has completed at least 24 hours of
174 continuing education. The board may provide by rule for
175 continuing education hours carryover for each renewal cycle not
176 to exceed 12 hours.

177 (1) The board shall adopt rules to establish the criteria
178 ~~and course content~~ for continuing education providers courses.
179 The rules may provide that up to a maximum of 25 percent of the
180 required continuing education hours may be fulfilled by the
181 performance of pro bono services to the indigent or to
182 underserved populations or in areas of critical need within the
183 state where the licensee practices. The board must require that
184 any pro bono services be approved in advance in order to receive
185 credit for continuing education under this section. The board
186 shall use the standard recognized by the Federal Poverty Income
187 Guidelines produced by the United States Department of Health
188 and Human Services in determining indigency. The board may adopt
189 rules that may provide that a part of the continuing education
190 hours may be fulfilled by performing research in critical need
191 areas or for training leading to advanced professional

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192 certification. The board may adopt rules to define underserved
193 and critical need areas. The department shall adopt rules for
194 the administration of continuing education requirements adopted
195 by the board.

196 (2) The board may provide by rule the method of delivery
197 and criteria that ~~distance learning~~ may be used to satisfy
198 continuing education requirements.

199 (3) The board may prorate the required continuing
200 education hours in the following circumstances:

201 (a) For new licensees:

202 1. By requiring half of the required continuing education
203 hours for any applicant who becomes licensed with more than half
204 the renewal period remaining and no continuing education for any
205 applicant who becomes licensed with half or less than half of
206 the renewal period remaining; or

207 2. Requiring no continuing education hours until the first
208 full renewal cycle of the licensee.

209 (b) When the number of hours required is increased by law
210 or the board.

211 (4) Upon the request of a licensee, the provider must also
212 furnish to the department information regarding courses
213 completed by the licensee, in an electronic format required by
214 rule of the department.

215 (5) Each continuing education provider shall retain all
216 records relating to a licensee's completion of continuing



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217 education courses for at least 4 years after completion of a
218 course.

219 (6) A continuing education provider may not be approved,
220 and the approval may not be renewed, unless the provider agrees
221 in writing to provide such cooperation under this section as
222 required by the department.

223 (7) For the purpose of determining which persons or
224 entities must meet the reporting, recordkeeping, and access
225 provisions of this section, the board by rule shall adopt a
226 definition of the term "continuing education provider"
227 applicable to the profession's continuing education
228 requirements. The intent of the rule is to ensure that all
229 records and information necessary to carry out the requirements
230 of this section are maintained and transmitted accordingly and
231 to minimize disputes as to what person or entity is responsible
232 for maintaining and reporting such records and information.

233 (8) The board shall approve the providers of continuing
234 education. The approval of continuing education providers ~~and~~
235 ~~courses~~ must be for a specified period of time, not to exceed 4
236 years. An approval that does not include such a time limitation
237 may remain in effect under this chapter or the rules adopted
238 under this chapter.

239 (9) The department may fine, suspend, or revoke approval
240 of any continuing education provider that fails to comply with
241 its duties under this section. The fine may not exceed \$500 per



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242 violation. Investigations and prosecutions of a provider's
243 failure to comply with its duties under this section shall be
244 conducted pursuant to s. 472.033.

245 (10) The board shall issue an order requiring a person or
246 entity to cease and desist from offering any continuing
247 education programs for licensees, and fining, suspending, or
248 revoking any approval of the provider previously granted by the
249 board if the board determines that the person or entity failed
250 to provide appropriate continuing education services ~~that~~
251 ~~conform to approved course material~~. The fine may not exceed
252 \$500 per violation. Investigations and prosecutions of a
253 provider's failure to comply with its duties under this section
254 shall be conducted under s. 472.033.

255 (11) The board may establish, by rule, a fee not to exceed
256 \$250 for anyone seeking approval to provide continuing education
257 courses and may establish, by rule, a biennial fee not to exceed
258 \$250 for the renewal of providership of such courses. Such
259 postlicensure education courses are subject to the reporting,
260 monitoring, and compliance provisions of this section.

261 (12) The department and the board may adopt rules under
262 ss. 120.536(1) and 120.54 to administer this section.

263 (13) Each continuing education provider shall provide to
264 the department, in an electronic format determined by the
265 department, information regarding the continuing education
266 status of licensees which the department determines is necessary



Amendment No. 1

267 to carry out its duties under this chapter. After a licensee
268 completes a course, the information must be submitted
269 electronically by the continuing education provider to the
270 department within 30 calendar days after completion. However,
271 beginning on the 30th day before the renewal deadline or before
272 the renewal date, whichever occurs sooner, the continuing
273 education provider shall electronically report such information
274 to the department within 10 business days after completion.

275 (14) The department shall establish a system to monitor
276 licensee compliance with continuing education requirements and
277 to determine the continuing education status of each licensee.
278 As used in this subsection, the term "monitor" means the act of
279 determining, for each licensee, whether the licensee is in full
280 compliance with applicable continuing education requirements as
281 of the date of the licensee's application for license renewal.

282 (15) The department may refuse to renew a license until
283 the licensee has satisfied all applicable continuing education
284 requirements. This subsection does not preclude the department
285 or board from imposing additional penalties pursuant to this
286 chapter or rules adopted pursuant this chapter.

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291

T I T L E A M E N D M E N T
Remove lines 7-14 and insert:

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292 | date; amending s. 472.003, F.S.; specifying that certain persons
293 | under contract with registered or certified surveyors and
294 | mappers are not subject to the provisions of ch. 472, F.S.;
295 | amending s. 472.005, F.S.; redefining the terms "practice of
296 | surveying and mapping" and "subordinate"; amending s. 472.013,
297 | F.S.; revising the standards for when an applicant is eligible
298 | to take the licensure examination to practice as a surveyor and
299 | mapper; amending s. 472.015, F.S.; revising the qualifications
300 | for licensure by endorsement; amending s. 472.018, F.S.;
301 | revising the continuing education requirements for new licensees
302 | and license renewal; amending s. 472.025, F.S.; deleting a



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Commerce Committee

Representative Raburn offered the following:

Amendment (with title amendment)

Remove lines 276-277 and insert:

investigative agency may, however, manage up to three offices within a 150-mile radius of the location listed on the agency's Class "A" license, provided that these three offices consist of either:

(a) The location listed on the agency's Class "A" license and up to two branch offices; or

(b) Up to three branch offices.

T I T L E A M E N D M E N T

Remove lines 27-28 and insert:



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 467 (2017)

Amendment No. 2

17 | of a private investigative agency may manage up to three
18 | offices; providing location requirements; amending s. 493.6105,
19 | F.S.; exempting certain



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Commerce Committee

2 Representative Raburn offered the following:

3
4 **Amendment**

5 Remove line 859 and insert:

6 transportation measurement systems, and those weights and

7 measures used for the



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Commerce Committee

Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 937 and 938, insert:

Section 32. Subsection (45) is added to section 570.07, Florida Statutes, to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(45) To perform food safety inspection services where raw agricultural commodities are grown, produced, harvested, held, packed, or repacked.



Amendment No. 4


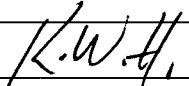
T I T L E A M E N D M E N T

17
18
19
20
21
22

Remove line 100 and insert:
of cattle; amending s. 570.07, F.S.; authorizing the
department to perform certain food safety inspection
services relating to raw agricultural commodities;
amending s. 573.118, F.S.; specifying that

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 585 Applications for Authority to Organize a Bank or Trust Company
SPONSOR(S): Insurance & Banking Subcommittee, McClain
TIED BILLS: IDEN./SIM. **BILLS:** SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Hinshelwood	Luczynski
2) Commerce Committee		Hinshelwood 	Hamon 

SUMMARY ANALYSIS

The Office of Financial Regulation (OFR) charters, licenses, and regulates various entities that engage in financial institution business in Florida, including state-chartered banks and trust companies. In order to form a new, or *de novo*, state-chartered bank or trust company, the law currently requires that a certain number of the proposed directors and the proposed president or chief executive officer have at least one year of relevant financial institution experience within the three years before the date of the application.

The banking industry has observed that a current barrier to the formation of a *de novo* state-chartered bank is a lack of qualified officers and directors due to the duration of non-compete clauses, generally two to three years, in comparison to the timeframe within which the proposed president or chief executive officer and a certain number of proposed directors must have at least one year of relevant financial institution experience. Upon the expiration of a non-compete clause in effect for more than two years, former directors and officers are not qualified to be a president or chief executive officer of a *de novo* state-chartered bank and are not qualified to be counted as a director of a *de novo* state-chartered bank who possesses the required financial institution experience because their one year of relevant financial institution experience must have been *within the last three years*.

The bill changes the timeframe within which to satisfy the required experience from three years to five years:

- The proposed president or chief executive officer must have at least one year of relevant financial institution experience *within the last five years*.
- At least two of the proposed directors who are not also proposed officers must have at least one year of relevant financial institution experience *within the last five years*. However, the OFR may allow only one director to have such experience if at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution *more than five years before the date of the application*.

The result of the bill is an expansion of the pool of individuals qualified to be a president or chief executive officer of a *de novo* state-chartered bank or trust company or qualified to be counted as a director of a *de novo* state-chartered bank or trust company who possesses relevant financial institution experience.

The bill has an indeterminate fiscal impact on the state. The bill has no impact on local governments and an indeterminate impact on the private sector.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Office of Financial Regulation (OFR) regulates banks, credit unions, other financial institutions, finance companies, and the securities industry.¹ The OFR's Division of Financial Institutions charters, licenses, and regulates various entities that engage in financial institution business in Florida, in accordance with the financial institutions codes (Codes) and the rules promulgated thereunder.² The specific chapters under the Codes are:

- Chapter 655, F.S. – Financial Institutions Generally
- Chapter 657, F.S. – Credit Unions
- Chapter 658, F.S. – Banks and Trust Companies
- Chapter 660, F.S. – Trust Business
- Chapter 662, F.S. – Family Trust Companies
- Chapter 663, F.S. – International Banking
- Chapter 665, F.S. – Capital Stock Associations
- Chapter 667, F.S. – Savings Banks

As of June 30, 2016, the Division of Financial Institutions regulates 206 financial institutions:³

- 103 banks
- 67 credit unions
- 23 international bank offices
- 13 trust companies

Formation of a New State-Chartered Bank or Trust Company

In order to apply for authority to organize a *de novo* state-chartered bank or trust company, the proposed directors must file a written application with the OFR.⁴ The application includes such information as the proposed corporate name; the community, including the street and number, if available, where the principal office of the proposed bank or trust company is to be located; the total initial capital; and detailed financial, business, and biographical information for each proposed director and executive officer.⁵

Upon the filing of an application, the OFR must make an investigation of:

- 1) The character, reputation, financial standing, business experience, and business qualifications of the proposed officers and directors.
- 2) The need for bank or trust facilities or additional bank or trust facilities, as the case may be, in the primary service area where the proposed bank or trust company is to be located.
- 3) The ability of the primary service area to support the proposed bank or trust company and all other existing bank or trust facilities in the primary service area.⁶

¹ s. 20.121(3)(a)2., F.S.

² Chs. 655, 657, 658, 660, 662, 663, 665, and 667, F.S.; chs. 69U-100 through 69U-162, F.A.C.

³ OFFICE OF FINANCIAL REGULATION, *Fast Facts* (4th ed., Dec. 2016),

<http://www.flofr.com/StaticPages/documents/FastFacts.pdf>.

⁴ s. 658.19(1), F.S.

⁵ *Id.*

⁶ s. 658.20(1), F.S.

After making such investigation, the OFR must approve an application if it finds the following:⁷

- 1) Local conditions indicate reasonable promise of successful operation for the proposed state bank or trust company.
- 2) The proposed capitalization is adequate, but at least:
 - a. \$8 million for a bank.
 - b. \$3 million for a trust company.
- 3) The proposed capital structure is in such form as the OFR may require, subject to certain minimum requirements.
- 4) Regarding officers and directors:
 - a. The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation.
 - b. None of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, F.S., relating to the control of money laundering and terrorist financing; ch. 896, F.S., relating to offenses related to financial institutions; or similar state or federal law.
 - c. At least two of the proposed directors who are not also proposed officers have had at least one year direct experience as an executive officer, regulator, or director of a financial institution *within the three years before the date of the application*. However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution *more than three years before the date of the application*, the OFR may allow only one director to have direct financial institution experience *within the last three years*.
 - d. The proposed president or chief executive officer must have had at least one year of direct experience as an executive officer, director, or regulator of a financial institution *within the last three years*.
- 5) The corporate name of the proposed state bank or trust company is approved by the OFR.
- 6) Provision has been made for suitable quarters at the location in the application.

The banking industry has observed that a current barrier to the formation of a *de novo* state-chartered bank is a lack of qualified officers and directors due to the duration of non-compete clauses, generally two to three years, in comparison to the timeframe within which the proposed president or chief executive officer and a certain number of proposed directors must have at least one year of relevant financial institution experience. Directors and officers of a bank may be required to sign an employment contract containing a non-compete clause⁸ that prohibits them from working in the banking sector for two to three years following separation from their current bank. Upon the expiration of a non-compete clause in effect for more than two years, such former directors and officers are not qualified to be a president or chief executive officer of a *de novo* state-chartered bank and are not qualified to be counted as a director of a *de novo* state-chartered bank who possesses at least one year of relevant financial institution experience because the one year of relevant financial institution experience must have been *within the last three years*, as currently required by s. 658.21(4), F.S.

Effect of Proposed Changes

The bill amends section 658.21(4), F.S., to increase the timeframe within which a proposed president or chief executive officer and a certain number of proposed directors must have one year of relevant financial institution experience in order to organize a *de novo* state-chartered bank or trust company. The bill changes the timeframe within which to satisfy the required experience from three years to five years:

⁷ s. 658.21, F.S.

⁸ Although generally a contract in restraint of trade or commerce is unlawful, the "enforcement of contracts that restrict or prohibit competition during or after the term of restrictive covenants, so long as such contracts are reasonable in time, area, and line of business, is not prohibited." See ss. 542.18 and 542.335(1), F.S.

- The proposed president or chief executive officer must have at least one year of relevant financial institution experience *within the last five years*.
- At least two of the proposed directors who are not also proposed officers must have at least one year of relevant financial institution experience *within the last five years*. However, the OFR may allow only one director to have such experience if at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution *more than five years before the date of the application*.

The result of the bill is an expansion of the pool of individuals qualified to be a president or chief executive officer of a *de novo* state-chartered bank or trust company or qualified to be counted as a director of a *de novo* state-chartered bank or trust company who possesses relevant financial institution experience.

B. SECTION DIRECTORY:

Section 1. Amends section 658.21, F.S., relating to approval of application; findings required.

Section 2. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the pool of individuals who are qualified to serve as a director, president, or chief executive officer of a *de novo* state-chartered bank or trust company may have a positive impact on efforts to form new banks and trust companies chartered by the state of Florida. However, the fiscal impact of the bill is indeterminate at this time, as it is unknown how many state-chartered banks or trust companies may form as a result of these changes.

D. FISCAL COMMENTS:

In the event of the formation of a new state-chartered bank or trust company, the OFR would receive \$15,000 as a nonrefundable application fee. Additionally, each state-chartered bank and trust company must pay the OFR a semi-annual assessment of \$2,500 and a semi-annual assessment that is set by rule and varies depending on the bank's or trust company's assets. However, the fiscal impact of the bill is indeterminate at this time, as it is unknown how many state-chartered banks or trust companies may form as a result of changes made by the bill.

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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2017, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute reflects the removal of sections of the bill that would have allowed a state-chartered bank or trust company to be organized as a benefit corporation under part III of Florida Business Corporation Act (ch. 607, F.S.) The committee substitute also reflects a narrowed title.

The staff analysis has been updated to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to applications for authority to
 3 organize a bank or trust company; amending s. 658.21,
 4 F.S.; revising requirements relating to the financial
 5 institution experience of certain proposed directors
 6 and officers; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (4) of section 658.21, Florida
 11 Statutes, is amended to read:

12 658.21 Approval of application; findings required.—The
 13 office shall approve the application if it finds that:

14 (4) The proposed officers have sufficient financial
 15 institution experience, ability, standing, and reputation and
 16 the proposed directors have sufficient business experience,
 17 ability, standing, and reputation to indicate reasonable promise
 18 of successful operation, and none of the proposed officers or
 19 directors has been convicted of, or pled guilty or nolo
 20 contendere to, any violation of s. 655.50, relating to the
 21 control of money laundering and terrorist financing; chapter
 22 896, relating to offenses related to financial institutions; or
 23 similar state or federal law. At least two of the proposed
 24 directors who are not also proposed officers must have had at
 25 least 1 year direct experience as an executive officer,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 | regulator, or director of a financial institution within the 5 ~~3~~
27 | years before the date of the application. However, if the
28 | applicant demonstrates that at least one of the proposed
29 | directors has very substantial experience as an executive
30 | officer, director, or regulator of a financial institution more
31 | than 5 ~~3~~ years before the date of the application, the office
32 | may modify the requirement and allow only one director to have
33 | direct financial institution experience within the last 5 ~~3~~
34 | years. The proposed president or chief executive officer must
35 | have had at least 1 year of direct experience as an executive
36 | officer, director, or regulator of a financial institution
37 | within the last 5 ~~3~~ years.

38 | Section 2. This act shall take effect July 1, 2017.

COMMERCE COMMITTEE

**CS/HB 585 by McClain
Applications for Authority to Organize a Bank or Trust Company**

**AMENDMENT SUMMARY
March 29, 2017**

Amendment 1 by Rep. McClain (Line 37): Revises the residency requirement for certain directors of a bank or trust company. Revises requirements relating to the financial institution experience of certain directors and officers of a bank or trust company. Amends the title accordingly.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Commerce Committee

2 Representative McClain offered the following:

4 **Amendment (with title amendment)**

5 Between lines 37 and 38, insert:

6 Section 2. Subsections (2) and (5) of section 658.33,

7 Florida Statutes, are amended to read:

8 658.33 Directors, number, qualifications; officers.--

9 (2) Not less than a majority of the directors must, during
10 their whole term of service, be citizens of the United States,
11 and at least a majority ~~three-fifths~~ of the directors must have
12 resided in this state for at least 1 year preceding their
13 election and must be residents therein during their continuance
14 in office. In the case of a bank or trust company with total
15 assets of less than \$150 million, at least one, and in the case
16 of a bank or trust company with total assets of \$150 million or



Amendment No. 1

17 more, two of the directors who are not also officers of the bank
18 or trust company must have had at least 1 year of direct
19 experience as an executive officer, regulator, or director of a
20 financial institution within the last 5 3 years.

21 (5) The president, chief executive officer, or any other
22 person, regardless of title, who has equivalent rank or leads
23 the overall operations of a bank or trust company must have had
24 at least 1 year of direct experience as an executive officer,
25 director, or regulator of a financial institution within the
26 last 5 3 years. This requirement may be waived by the office
27 after considering the overall experience and expertise of the
28 proposed officer and the condition of the bank or trust company,
29 as reflected in the most recent regulatory examination report
30 and other available data.

31
32
33 -----
34 **T I T L E A M E N D M E N T**

35 Remove everything before the enacting clause and insert:
36 An act relating to governance of banks and trust companies;
37 amending s. 658.21, F.S.; revising requirements relating to the
38 financial institution experience of certain proposed directors
39 and officers of a newly organized bank or trust company;
40 amending s. 658.33, F.S.; revising the residency requirement for
41 certain directors of a bank or trust company; revising



Amendment No. 1

42 requirements relating to the financial institution experience of
43 certain directors and officers of a bank or trust company;
44 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 741 Department of Business and Professional Regulation Fees
SPONSOR(S): Trumbull
TIED BILLS: IDEN./SIM. **BILLS:** SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	13 Y, 0 N	Willson	Anstead
2) Government Operations & Technology Appropriations Subcommittee	10 Y, 0 N	Topp	Topp
3) Commerce Committee		Willson <i>MW</i>	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

The Department of Business and Professional Responsibility (DBPR) regulates and licenses businesses and professionals in Florida through the establishment of professional boards and programs. As part of this regulatory system, DBPR and its boards impose licensing and renewal fees for such licenses.

DBPR imposes an additional fee on licensees that have fallen into delinquent status. This additional delinquency fee is established in rule by each board, and may be for an amount up to the price of the renewal fee charged to active, non-delinquent licensees. The bill reduces the additional delinquency fee to a flat rate of \$25.00.

DBPR also houses the Florida Building Commission, which enforces the Florida Building Code. All local building departments assess and collect a 1.5% surcharge on any building permit issued by their agency for the purpose of enforcing the Florida Building Code. The bill reduces the surcharge assessed on Florida building permits issued to 1.0%.

The bill will have a negative fiscal impact on revenues to state and local governments. See *Fiscal Analysis and Economic Impact Statement*.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Professional Licensing

DBPR licenses and regulates businesses and professionals in Florida. DBPR includes separate divisions and various professional boards that are responsible for carrying out the department's mission to license efficiently and regulate fairly.

Section 20.165, F.S., establishes the organizational structure of DBPR. There are 12 divisions:

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

There are 15 boards and programs established within the Division of Professions,¹ two boards within the Division of Real Estate,² and one board within the Division of Certified Public Accounting.³ The Florida State Boxing Commission (boxing commission) is also assigned to DBPR for administrative and fiscal accountability purposes only.⁴ DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law pursuant to parts I and III of ch. 450, F.S.

Regulation of professions is limited by law, to be undertaken "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."⁵ 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.⁶

¹ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers' Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors' Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468.

² See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

³ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

⁴ See s. 548.003(1), F.S.

⁵ See s. 455.201(2), F.S.

⁶ *Id.*

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.⁷

Chapter 455, F.S., provides the general powers of DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under DBPR, as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.⁸ When a person is authorized to engage in a profession or occupation in Florida by DBPR, the department issues a “permit, registration, certificate, or license” to the licensee.⁹

In Fiscal Year 2015-2016, the Division of Accountancy had 39,216 licensees, the Division of Real Estate had 349,668 licensees, the Board of Professional Engineers had 61,396 licensees, and the Division of Professions had 434,001 licensees,¹⁰ including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Landscape architects;
- Harbor pilots;
- Mold-related services;
- Talent agencies; and
- Veterinarians.¹¹

Sections 455.203 and 455.213, F.S., establish general licensing provisions for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for its profession, based on estimates of the required revenue to implement regulatory laws.¹²

DBPR may adopt rules to implement a waiver of renewal fees when it determines that a profession’s trust fund moneys exceed the amount required to cover the necessary functions of the board (or of DBPR, when there is no board). However, the waiver period may not exceed two years.¹³

⁷ s. 455.201(4)(b), F.S.

⁸ See s. 455.203, F.S. The department must also provide legal counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing department staff counsel. See s. 455.221(1), F.S.

⁹ See s. 455.01(4) and (5), F.S.

¹⁰ Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2015-2016*, available at http://www.myfloridalicense.com/dbpr/os/documents/ProfessionsAnnualReportFY2015-2016_Final.pdf, at 22, (last visited Mar. 25, 2017). Of the total 434,001 licensees in the Division of Professions, 23,183 are inactive, but all licensees, whether or not active, must pay the \$5 unlicensed activity fee.

¹¹ *Id.* at 12.

¹² See s. 455.219(1), F.S.

¹³ *Id.* Each board (or the department when there is no board) must ensure that license fees will cover all anticipated costs and a reasonable cash balance will be maintained. If sufficient action is not taken by a board within one year of notification by the department that license fees are projected to be inadequate, the department must set license fees for the board, in order to cover anticipated costs and to maintain the required cash balance.

Section 455.271, F.S., requires each professional licensing board, or DBPR when there is no board, to impose an additional delinquency fee for the renewal of a delinquent status license. The delinquency fee must be adopted by rule. The additional fee may be up to the same amount as the biennial renewal fee, potentially doubling the cost to renew a license that is in delinquent status. Currently, all boards have adopted delinquency fees, which vary by profession and range, from \$25.00 to \$260.00.

Florida Building Code

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act (Act)." The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare. Under current law, counties and local enforcement agencies have authority to enforce the Florida Building Code and issue building permits.

Section 553.721, F.S., requires that all local building departments assess and collect a 1.5% surcharge on any building permit issued by their agency for the purpose of enforcing the Florida Building Code. The surcharge assessment is paid directly by the individual or construction professional pulling the permit and is generally passed on to consumers through increased costs for construction. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Florida Building Commission and DBPR's Office of Codes and Standards. Local building departments are permitted to retain 10% of the surcharge amount they collect to fund participation of their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.

Effect of the Bill

The bill sets a flat fee of \$25 for all additional delinquency fees imposed on a delinquent status licensee when the licensee applies for active or inactive status.

The bill reduces the surcharge assessed on Florida building permits issued from 1.5% to 1.0%.

B. SECTION DIRECTORY:

- Section 1 Amends s. 455.271, F.S., revising the delinquency fee that a professional board or the department imposes on a delinquent status licensee.

- Section 2 Amends s. 553.721, F.S.; revising the surcharge that the department assesses on building permits.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
See Fiscal Comments.

- 2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Currently, local building departments are required to retain 10% of the surcharge collected on building permits to fund the participation of local building departments in national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.¹⁴ The bill reduces the surcharge rate from 1.5% to 1.0%, therefore the 10% retained by local government would also decrease based on the lower amount of surcharge assessed against each building permit. The estimated loss of revenue to cities and counties would be approximately \$290,039 in FY 2017-18 and the same amount in FY 2018-19 and FY 2019-20.¹⁵

Cities and Counties Revenue Impact (Statewide)

	FY 2017-18	FY 2018-19	FY 2019-20
Current Law: 10% of 1.5% Surcharge	870,118	870,118	870,118
Effect of the bill: 10% of 1.0% Surcharge	580,079	580,079	580,079
Net Reduction to Cities and Counties (combined)	(290,039)	(290,039)	(290,039)

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the expenditures associated with building permit fees and delinquency fees to maintain professional licensure.

D. FISCAL COMMENTS:

DBPR - Delinquency Fee Reduction Methodology:

Delinquent fees collected by boards in 2015-16 were recalculated by DBPR using the new proposed fee of \$25 rather than the current fee. Revenue decreases were summed for a total decrease in revenue.¹⁶

	FY 2017-18	FY 2018-19	FY 2019-20
Revenue Reduction:	(680,060)	(680,060)	(680,060)
8% Surcharge to GR Reduction	(54,405)	(54,405)	(54,405)

DBPR - Building Permit Surcharge Reduction Methodology:

Total surcharge fees were calculated by DBPR by taking surcharge revenues received by DBPR in Fiscal Year 2015-16. The prior year's total surcharge fees were then reduced by 1/3 to reflect the surcharge reducing from 1.5% to 1.0%. Therefore, projected savings were based on the 2016 surcharge fees.¹⁷

Building Permit Surcharge Reduction 1.5% to 1.0%	1.5 % NET from 6/30/16 Financial Statement		
	FY 2017-18	FY 2018-19	FY 2019-20
Revenues to TF: 1.5% Surcharge (Current law)	7,831,064	7,831,064	7,831,064
NET Revenues to TF: 1.0% Surcharge (with reduction)	5,220,709	5,220,709	5,220,709
Net Reduction in State Revenue	(2,610,355)	(2,610,355)	(2,610,355)
8% GR Surcharge Reduction	(208,828)	(208,828)	(208,828)

¹⁴ s. 553.721, F.S.

¹⁵ Department of Business and Professional Regulation, Bill Analysis, February 28, 2017, on file with the Government Operations & Technology Appropriations Subcommittee.

¹⁶ *Id.*

¹⁷ *Id.*

Total State Revenue Reductions

	FY 2017-18	FY 2018-19	FY 2019-20
Surcharge and Delinquency Fee	(3,290,415)	(3,290,415)	(3,290,415)
8% GR Service Charge	(263,233)	(263,233)	(263,233)

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:

Current law provides for DBPR and applicable boards to impose an additional delinquency fee, by rule, in an amount not to exceed the biennial renewal fee. To the extent that current fees are for an amount other than \$25, DBPR and applicable boards will need to amend their respective rules to reflect the flat \$25 fee established by the bill. Otherwise, there is no mandatory rulemaking or rulemaking authority in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to Department of Business and
Professional Regulation fees; amending s. 455.271,
F.S.; revising the delinquency fee that a professional
board or the department imposes on a delinquent status
licensee; amending s. 553.721, F.S.; revising the
surcharge that the department assesses on building
permits; providing an effective date.

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

Section 1. Subsection (7) of section 455.271, Florida
Statutes, is amended to read:

455.271 Inactive and delinquent status.-

(7) Notwithstanding the provisions of the professional
practice acts administered by the department, each board, or the
department when there is no board, shall, by rule, impose an
additional delinquency fee of \$25, ~~not to exceed the biennial
renewal fee for an active status license,~~ on a delinquent status
licensee when such licensee applies for active or inactive
status.

Section 2. Section 553.721, Florida Statutes, is amended
to read:

553.721 Surcharge.-In order for the Department of Business
and Professional Regulation to administer and carry out the


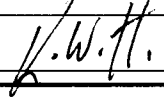
26 | purposes of this part and related activities, there is created a
 27 | surcharge, ~~to be~~ assessed at the rate of 1 ~~1.5~~ percent of the
 28 | permit fees associated with enforcement of the Florida Building
 29 | Code as defined by the uniform account criteria and specifically
 30 | the uniform account code for building permits adopted for local
 31 | government financial reporting pursuant to s. 218.32. The
 32 | minimum amount collected on any permit issued shall be \$2. The
 33 | unit of government responsible for collecting a permit fee
 34 | pursuant to s. 125.56(4) or s. 166.201 shall collect the
 35 | surcharge and electronically remit the funds collected to the
 36 | department on a quarterly calendar basis for the preceding
 37 | quarter and continuing each third month thereafter. The unit of
 38 | government shall retain 10 percent of the surcharge collected to
 39 | fund the participation of building departments in the national
 40 | and state building code adoption processes and to provide
 41 | education related to enforcement of the Florida Building Code.
 42 | All funds remitted to the department pursuant to this section
 43 | shall be deposited in the Professional Regulation Trust Fund.
 44 | Funds collected from the surcharge shall be allocated to fund
 45 | the Florida Building Commission and the Florida Building Code
 46 | Compliance and Mitigation Program under s. 553.841. Funds
 47 | allocated to the Florida Building Code Compliance and Mitigation
 48 | Program shall be \$925,000 each fiscal year. The Florida Building
 49 | Code Compliance and Mitigation Program shall fund the
 50 | recommendations made by the Building Code System Uniform

51 Implementation Evaluation Workgroup, dated April 8, 2013, from
 52 existing resources, not to exceed \$30,000 in the 2016-2017
 53 fiscal year. Funds collected from the surcharge shall also be
 54 used to fund Florida Fire Prevention Code informal
 55 interpretations managed by the State Fire Marshal and shall be
 56 limited to \$15,000 each fiscal year. The State Fire Marshal
 57 shall adopt rules to address the implementation and expenditure
 58 of the funds allocated to fund the Florida Fire Prevention Code
 59 informal interpretations under this section. The funds collected
 60 from the surcharge may not be used to fund research on
 61 techniques for mitigation of radon in existing buildings. Funds
 62 used by the department as well as funds to be transferred to the
 63 Department of Health and the State Fire Marshal shall be as
 64 prescribed in the annual General Appropriations Act. The
 65 department shall adopt rules governing the collection and
 66 remittance of surcharges pursuant to chapter 120.

67 Section 3. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1233 Cottage Food Operations
SPONSOR(S): White and Ahern
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1136

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	12 Y, 0 N	Wright	Anstead
2) Commerce Committee		Wright 	Hamon 

SUMMARY ANALYSIS

Cottage foods are those food products which are sold by people who produce foods at their own residence and that have been determined by the Florida Department of Agriculture and Consumer Services (DACS) to be "non-potentially hazardous." Examples of permissible cottage foods are breads, honey, cakes, and popcorn. Food products containing meats and fresh fruits and vegetables or those that require temperature control are generally prohibited cottage foods.

A cottage food operation may sell cottage foods without conforming to state food and building permitting requirements if the annual gross sales of such products do not exceed \$15,000. Certain operating standards must also be followed, including not selling or accepting payment for cottage foods over the internet.

The bill increases the maximum annual gross sales limit of cottage foods from \$15,000 to \$50,000.

The bill allows cottage food operations to sell, offer to sell, and accept payment for cottage foods over the internet, as long as the cottage foods are delivered in person directly to the consumer or to a specific event venue.

The bill has no fiscal impact on local governments and a minimal indeterminate fiscal impact on state government.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Cottage Foods

In Florida, "cottage food products" (cottage foods) are food products that DACS has determined are "non-potentially hazardous"¹ and which are sold in accordance with cottage food operating requirements.²

Common examples of permitted and prohibited cottage foods are as follows:³

Permitted Cottage Foods	Prohibited Cottage Foods
<ul style="list-style-type: none">• Loaf breads, rolls, and biscuits;• Cakes, pastries, and cookies;• Candies and confections;• Honey;• Jams, jellies, and preserves;• Fruit pies and dried fruits;• Dry herbs, seasonings, and mixtures;• Homemade pasta;• Cereals, trail mixes, and granola;• Coated or uncoated nuts;• Vinegar and flavored vinegars; and• Popcorn and popcorn balls.	<ul style="list-style-type: none">• Fresh or dried meat or meat products including jerky;• Canned fruits and vegetables, chutneys, vegetable butters and jellies, flavored oils, hummus, garlic dip, salsas, etc.;• Fish or shellfish products;• Canned pickled products such as corn relish, pickles, and sauerkraut;• Raw seed sprouts;• Bakery goods which require any type of refrigeration, such as cream, custard, or meringue pies and cakes or pastries with cream cheese icings or fillings;• Milk and dairy products including hard, soft, and cottage cheeses and yogurt;• Cut fresh fruits and/or vegetables;• Juices made from fresh fruits or vegetables;• Ice and/or ice products;• Barbeque sauces, ketchups, and/or mustards; and• Focaccia-style breads with vegetables and/or cheeses.

¹ "Potentially hazardous food" means a food that requires time/temperature control (TCS) to limit pathogenic microorganism growth or toxin formation. Department of Agriculture and Consumer Services, *Division of Food Safety: Cottage Food Legislation Signed into Law*, February 2014. Available at <https://www.freshfromflorida.com/content/download/10223/137606/CottageFoodAdvisoryWithFormNumber.pdf> (last visited March 15, 2017).

² s. 500.03(1)(k), F.S.

³ Florida Department of Agriculture and Consumer Services, *supra* note 1.

Cottage Food Operating Requirements

In Florida, “cottage food operations” are natural persons who produce or package cottage foods at his or her residence and are exempt from food and building permitting requirements⁴ if he or she sells such products in accordance with the cottage food operating requirements.⁵

A cottage food operation complies with the cottage food operating requirements if:

- Annual gross sales of cottage foods do not exceed \$15,000;⁶
- Cottage foods are not sold or offered to be sold over the internet, by mail order, or at wholesale;
- Cottage foods are sold prepackaged with a label affixed containing the following information:
 - Name and address of the cottage food operation;
 - Name of the cottage food;
 - Ingredients of the cottage food, in descending order of predominance by weight;
 - Net weight or net volume of the cottage food;
 - Allergen information as specified by federal labeling requirements;
 - If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and
 - A statement printed in at least 10-point font and in a color that provides clear contrast to the background of the label which reads “Made in a cottage food operation that is not subject to Florida’s food safety regulations;”
- Only cottage foods that are stored on the premises of the cottage food operation are sold;
- Any applicable state or federal tax law, rule, regulation, or certificate or any applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage foods by a cottage food operation or from a person’s residence are complied with.⁷

Cottage food operations may advertise their products on their websites, but they may not sell or take orders over the internet. Cottage food operations may sell cottage foods at events, such as weddings, festivals, and parties.⁸

DACS may enter and inspect the premises of a cottage food operation to determine compliance with the cottage food operations requirements only upon receipt of a complaint which alleges that a cottage food operation has violated any of the cottage food operating requirements. If a cottage food operation refuses to permit DACS to enter the premises or to conduct the inspection, it is subject to disciplinary action.⁹

In 2016, DACS had one complaint against a cottage food operation, but there was insufficient evidence to investigate the claim.¹⁰

Effect of the Bill

The bill increases the maximum annual gross sales limit of cottage foods from \$15,000 to \$50,000 for a cottage food operation to maintain an exemption from state food and building permitting requirements.

⁴ Outlined in s. 500.12, F.S.

⁵ s. 500.03(1)(j), F.S.

⁶ This includes all sales of products from any location, regardless of the types of products sold or number of persons involved in any operation. Documentation of sales must be available to DACS for verification. s. 500.80(1)(b), F.S.

⁷ s. 500.80(1)-(6), F.S.

⁸ Florida Department of Agriculture and Consumer Services, *Cottage Food Operations*, May 2016. Available at http://www.freshfromflorida.com/content/download/70108/1634054/Cottage_Food_Guidance.pdf (last visited March 15, 2017).

⁹ s. 500.08(7)(a)-(b), F.S.

¹⁰ Email from Grace Lovett, Director of Legislative Affairs, Department of Agriculture and Consumer Services, RE: HB 1233 (March 16, 2017).

The bill allows cottage food operations to sell, offer to sell, and accept payment for cottage foods over the internet, as long as the cottage foods are delivered in person directly to the consumer or to a specific event venue.

The bill provides an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1 Amends s. 500.80, F.S., by increasing the gross sales limitation, and allowing internet sales, offers to sell, and payment, under certain conditions.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact on DACS is indeterminate.

2. Expenditures:

The fiscal impact is indeterminate, but it is expected to be minimal. With the increase in allowed gross sales of cottage food operators, DACS may see a rise in complaints, and therefore a rise in investigations of cottage food operators.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Current cottage food operations may be able to expand their businesses due to the increase of the gross sales limitation.

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:

DACS will need to amend rules related to the manner in which cottage food operations may sell cottage foods. Authority to do so is granted in s. 500.09, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to cottage food operations; amending
3 s. 500.80, F.S.; increasing the annual gross sales
4 limitation for exempting cottage food operations from
5 certain food and building permitting requirements;
6 authorizing cottage food products to be advertised,
7 sold, and paid for over the Internet; requiring such
8 products to be delivered in person directly to the
9 consumer or to a specific event venue; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (a) of subsection (1) and subsection
15 (2) of section 500.80, Florida Statutes, are amended to read:

16 500.80 Cottage food operations.—

17 (1)(a) A cottage food operation must comply with the
18 applicable requirements of this chapter but is exempt from the
19 permitting requirements of s. 500.12 if the cottage food
20 operation complies with this section and has annual gross sales
21 of cottage food products that do not exceed \$50,000 ~~\$15,000~~.

22 (2) A cottage food operation may sell, offer for sale, and
23 accept payment for cottage food products over the Internet but
24 such products must be delivered in person directly to the
25 consumer or to a specific event venue. A cottage food operation

CODING: Words ~~stricken~~ are deletions; words underlined are additions.


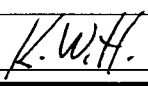
HB 1233

2017

26 | may not sell, ~~or~~ offer for sale, or deliver cottage food
27 | products ~~over the Internet,~~ by mail order, or at wholesale.
28 | Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1347 Application of the Florida Deceptive and Unfair Trade Practices Act to Credit Unions
SPONSOR(S): Insurance & Banking Subcommittee, Jones
TIED BILLS: IDEN./SIM. **BILLS:** SB 1620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Hinshelwood	Luczynski
2) Commerce Committee		Hinshelwood 	Hamon 

SUMMARY ANALYSIS

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) prohibits “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” FDUTPA does not apply to certain entities that are otherwise regulated, such as banks or savings and loan associations, but it does apply to credit unions.

Like banks, state-chartered and federally-chartered credit unions are subject to a number of regulations that govern their activities and provide some protections which overlap with FDUTPA, including the:

- Truth in Savings Act,
- Accuracy of advertising requirement,
- Equal Credit Opportunity and Fair Housing Acts,
- Fair Credit Reporting Act,
- Truth in Lending Act,
- Real Estate Settlement Procedures Act,
- Gramm-Leach-Bliley Act’s requirements relating to the privacy of consumer financial information,
- Consumer Financial Protection Bureau’s prohibition on unfair, deceptive, or abusive acts or practices, and
- Federal Trade Commission’s prohibition on unfair or deceptive acts or practices.

Consistent with current exemptions for banks and savings and loan associations, the bill provides that FDUTPA does not apply to state-chartered and federally-charted credit unions.

The bill has an indeterminate fiscal impact on the state. The bill has no impact on local governments and an indeterminate impact on the private sector.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Deceptive and Unfair Trade Practices Act

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973.¹ The purpose² of FDUTPA is to:

- 1) Simplify, clarify, and modernize the law governing consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices.
- 2) Protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.
- 3) Make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.

FDUTPA prohibits “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”³ The term “trade or commerce” is defined as “advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated”, and the term includes “the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.”⁴

Investigative and enforcement authority under FDUTPA is given to a state attorney if a violation occurs in or affects the judicial circuit under the office’s jurisdiction, and to the Department of Legal Affairs (Department) if a violation occurs in or affects more than one judicial circuit or if the state attorney defers to the Department.⁵ These enforcing authorities may, within 4 years after the occurrence of a violation or within 2 years after the last payment in a transaction involved in a violation, bring an action to obtain a declaratory judgment that an act or practice violates FDUTPA; an action to enjoin any person who has violated, is violating, or is otherwise likely to violate FDUTPA; or an action on behalf of one or more consumers or governmental entities for the actual damages caused by an act or practice in violation of FDUTPA.⁶ Additionally, these enforcing authorities may collect a civil penalty of up to \$10,000 per violation plus reasonable attorney’s fees and costs for willful violations of FDUTPA and up to \$15,000 plus reasonable attorney’s fees and costs for willful violations of FDUTPA involving a senior citizen, a person who has a disability, a military servicemember, or the spouse or dependent child of a military servicemember.⁷ The Department also has authority to issue a cease and desist order if it would be in the interest of the public.⁸

If a state attorney or the Department receives a complaint regarding a person who is subject to other supervision in this state, such enforcing authority must inform the supervising agency.⁹

¹ Ch. 73-124, Laws of Fla.; codified at Part II of Ch. 501, F.S.

² s. 501.202, F.S.

³ s. 501.204(1), F.S.

⁴ s. 501.203(8), F.S.

⁵ ss. 501.203(2), 501.206, and 501.207, F.S.

⁶ s. 501.207(1) and (5), F.S.

⁷ ss. 501.2075, 501.2077, and 501.2105, F.S.

⁸ s. 501.208(1), F.S.

⁹ s. 501.209, F.S.

FDUTPA provides a private cause of action for anyone aggrieved by a violation of FDUTPA to obtain a declaratory judgement that an act or practice violates FDUTPA; to enjoin a person who has violated, is violating, or is otherwise likely to violate this part; and to recover actual damages plus reasonable attorney's fees and costs.¹⁰

FDUTPA contains a list of certain entities to which it is *inapplicable*, including:¹¹

- a) Any person or activity regulated under laws administered by the Office of Insurance Regulation of the Financial Services Commission;
- b) Banks and savings and loan associations regulated by the Office of Financial Regulation of the Financial Services Commission;
- c) Banks or savings and loan associations regulated by federal agencies; or
- d) Any person or activity regulated under the laws administered by the former Department of Insurance which are now administered by the Department of Financial Services.

Although FDUTPA contemplates the exemption of the above entities that are otherwise regulated, it does not currently exempt credit unions.

Regulation of Credit Unions

Under the dual banking system in the United States, credit unions may be chartered under either state or federal law:

- *State-chartered credit unions* may be formed under the Florida Credit Union Act (act), which became law in 1980.¹² The act provides that “[a] credit union is a cooperative, nonprofit association, organized . . . for the purposes of encouraging thrift among its members, creating sources of credit at fair and reasonable rates of interest, and providing an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition.”¹³ State-chartered credit unions have both a state regulator, the Office of Financial Regulation, and a federal regulator, the National Credit Union Association (NCUA).
- *Federally-chartered credit unions* are chartered under the Federal Credit Union Act of 1934¹⁴ and are regulated by the NCUA.

In addition to regulating both state-chartered and federally-chartered credit unions, the NCUA also operates and manages the National Credit Union Share Insurance Fund (NCUSIF), which insures share (deposit) accounts for members of all federally-chartered credit unions and most state-chartered credit unions.¹⁵ All state-chartered credit unions operating in Florida must carry NCUSIF insurance.¹⁶ The standard maximum share insurance amount is \$250,000.¹⁷

Like banks, state-chartered and federally-chartered credit unions are subject to a number of regulations that govern their activities and provide some protections which overlap with FDUTPA, including the following regulations:

- *Truth in Savings Act (TISA)*¹⁸ - The purpose of TISA is “to enable credit union members and potential members to make informed decisions about accounts at credit unions.”¹⁹ TISA

¹⁰ ss. 501.2105 and 501.211, F.S.

¹¹ s. 501.212, F.S.

¹² Ch. 80-258, Laws of Fla.; codified at ch. 657, F.S.

¹³ s. 657.003, F.S.

¹⁴ Public Law 73-467, codified at 12 U.S.C. § 1751 *et seq.*

¹⁵ Federally-chartered credit unions must be insured through NCUSIF, and state-chartered credit unions may be insured through NCUSIF, though some state-chartered credit unions may be insured by private insurance or guaranty corporations. See NCUA, *Your Insured Funds*, available at <https://www.ncua.gov/Legal/GuidesEtc/GuidesManuals/NCUAYourInsuredFunds.pdf> (last visited Mar. 17, 2017).

¹⁶ ss. 657.005(7), 657.008(5)(a)2., and 657.033(9), F.S.

¹⁷ *Id.*

¹⁸ 12 CFR Part 707.

“requires credit unions to provide disclosures so that members and potential members can make meaningful comparisons among credit unions and depository institutions.”²⁰ TISA also prohibits an advertising that is misleading or inaccurate or that misrepresents a credit union’s account agreement.²¹

- *Accuracy of advertising requirement* – Credit unions insured through NCUSIF “may [not] use any advertising (which includes print, electronic, or broadcast media, displays and signs, stationery, and other promotional material) or make any representation which is inaccurate or deceptive in any particular, or which in any way misrepresents its services, contracts, or financial condition.”²²
- *Equal Credit Opportunity (ECOA)*²³ and *Fair Housing (FHA)*²⁴ Acts – ECOA prohibits discrimination in any aspect of a credit transaction against persons on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), the fact that an applicant’s income derives from any public assistance program, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The FHA works in conjunction with the ECOA to prohibit discrimination by anyone who is in the business of providing loans for housing.²⁵
- *Fair Credit Reporting Act (FCRA)*²⁶ – The FCRA defines the responsibilities and liabilities of those who provide information to and access data from a consumer reporting agency (CRA).²⁷ The FCRA was designed to promote accuracy, fairness, and privacy of information in the files of every CRA by:
 - Regulating the consumer reporting industry;
 - Placing disclosure obligations on users of consumer reports;
 - Ensuring fair, timely, and accurate reporting of credit information;
 - Restricting the use of reports on consumers; and
 - In certain situations, requiring the deletion of obsolete information.²⁸
- *Truth in Lending Act (TILA)*²⁹ – TILA requires certain disclosures relating to the terms and cost of various forms of consumer credit, and such disclosures must be made “clearly and conspicuously.”³⁰
- *Real Estate Settlement Procedures Act (RESPA)*³¹ – RESPA requires certain timely disclosures regarding the nature and costs of the real estate settlement process. For example, a lender must provide an applicant with a good faith estimate no later than three business days after a lender receives an application.³²
- *Privacy of consumer financial information under the Gramm-Leach-Bliley Act (GLBA)*³³ – The GLBA governs a financial institution’s treatment of nonpublic personal information about consumers.³⁴ Subject to only certain exceptions, the GLBA prohibits a financial institution from

¹⁹ 12 CFR § 707.1(b).

²⁰ *Id.*

²¹ 12 CFR § 707.8(a)(1).

²² 12 CFR § 740.2.

²³ 12 CFR Part 1002.

²⁴ 42 U.S.C. § 3601 *et seq.*

²⁵ NCUA, *Consumer Compliance Manual: Fair Housing Act*, available at <https://www.ncua.gov/regulation-supervision/Pages/manuals-guides/consumer-compliance.aspx> (last visited Mar. 18, 2017).

²⁶ 15 U.S.C. § 1681 *et seq.*

²⁷ NCUA, *Consumer Compliance Manual: Fair Credit Reporting Act*, available at <https://www.ncua.gov/regulation-supervision/Pages/manuals-guides/consumer-compliance.aspx> (last visited Mar. 18, 2017).

²⁸ *Id.*

²⁹ 12 CFR Part 1026.

³⁰ *Id.* at §§ 1026.1(b) and 1026.5(a).

³¹ 12 CFR Part 1024.

³² *Id.* at § 1024.7 and Appendix C.

³³ 15 U.S.C. § 6801 *et seq.*

³⁴ NCUA, *Consumer Compliance Manual: Privacy of Consumer Financial Information*, available at <https://www.ncua.gov/regulation-supervision/Pages/manuals-guides/consumer-compliance.aspx> (last visited Mar. 18, 2017).

disclosing nonpublic personal information about a consumer to nonaffiliated third parties, unless the institution satisfies various notice and opt-out requirements, and provided that the consumer has not elected to opt out of the disclosure.³⁵ The GLBA also requires the institution to provide notice of its privacy policies and practices to its customers. Various rules and regulations have been issued to implement provisions of the GLBA.³⁶

- *Consumer Financial Protection Bureau's (CFPB's) prohibition on unfair, deceptive, or abusive acts or practices*³⁷ – The CFPB is a federal agency that regulates the offering and provision of consumer financial products or services under the federal consumer financial laws for which the CFPB has been given authority to enforce.³⁸ The CFPB is the enforcement authority for many of the above-mentioned regulations. The CFPB has broad prohibitions on covered persons or service providers “from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.”³⁹ State-chartered and federally-chartered credit unions would be considered covered persons for purposes of the CFPB’s prohibition on unfair, deceptive, or abusive acts or practices.⁴⁰
- *Federal Trade Commission's (FTC's) prohibition on unfair or deceptive acts or practices*⁴¹ - The FTC is a federal agency whose mission is “[t]o prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish this without unduly burdening legitimate business activity.”⁴² The FTC is empowered to prevent persons and entities “from using unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce.”⁴³ The FTC’s authority in this area does not extend to banks, savings and loan institutions, or federally-chartered credit unions.⁴⁴ Because state-chartered credit unions are not expressly exempted from the FTC’s authority to enforce this prohibition on unfair or deceptive acts or practices, such credit unions would be covered by the FTC’s authority. However, as noted above, the CFPB has broad authority to enforce a prohibition on unfair, deceptive, or abusive acts or practices in relation to both state-chartered and federally-chartered credit unions.

Effect of Proposed Changes

Consistent with current exemptions for banks and savings and loan associations, the bill provides that FDUTPA does not apply to state-chartered and federally-chartered credit unions.

B. SECTION DIRECTORY:

Section 1. Amends section 501.212, F.S., relating to application of the Florida Deceptive and Unfair Trade Practices Act.

Section 2. Provides an effective date of July 1, 2017.

³⁵ *Id.*

³⁶ 12 CFR § 716.1 and Part 1016.

³⁷ 12 U.S.C. § 5536(a)(1).

³⁸ 12 U.S.C. §§ 5481(14) and 5491(a).

³⁹ 12 U.S.C. § 5531(a). *See also* § 5536(a)(1) (prohibiting “any covered person or service provider – (A) to offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise commit any act or omission in violation of a Federal consumer financial law; or (B) to engage in any unfair, deceptive, or abusive act or practice”).

⁴⁰ 12 U.S.C. §§ 5481(5), (6), and (15).

⁴¹ 15 U.S.C. § 45(a).

⁴² Federal Trade Commission, *About the FTC*, <https://www.ftc.gov/about-ftc> (last visited Mar. 18, 2017).

⁴³ 15 U.S.C. § 45(a).

⁴⁴ *Id.* at 45(a)(2).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

If a state attorney or the Department collects money under FDUTPA for civil penalties, attorney's fees, or costs, FDUTPA instructs the state attorney or Department to deposit such money in the General Revenue Fund, Legal Affairs Revolving Trust Fund of the Department, or Consumer Frauds Trust Fund of the Justice Administrative Commission, depending on the nature of the action.⁴⁵ The bill would prevent these enforcing authorities from collecting civil penalties, attorney's fees, and costs against a credit union for FDUTPA violations. However, the fiscal impact of the bill is indeterminate, as the potential for future actions under FDUTPA is unknown.

2. Expenditures:

The primary enforcing authorities of FDUTPA are state attorneys and the Department. The exemption of an entity under FDUTPA relieves these enforcing authorities from expenditures involved in enforcing FDUTPA against an exempt entity. However, in the case of an entity that is subject to supervision by another agency, such as a state-chartered credit union regulated by the OFR, FDUTPA would still require that the enforcing authorities forward a complaint to the OFR, which may result in expenditures on the part of the OFR. However, the fiscal impact of the bill is indeterminate, as the potential for future actions and complaints under FDUTPA is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill relieves credit unions of the potential for investigation and enforcement by authorities over and above the regulatory authorities to which they are otherwise subject. The bill precludes a private citizen from suing a credit union to recover the cost of actual damages, plus attorney's fees and court costs, for violations of FDUTPA. However, the fiscal impact of the bill is indeterminate, as the potential for future actions under FDUTPA is unknown.

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.

⁴⁵ ss. 501.2075, 501.2077, and 501.2101, F.S.
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2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2017, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute reflects a narrowed title.

The staff analysis has been updated to reflect the committee substitute.

1 A bill to be entitled
2 An act relating to application of the Florida
3 Deceptive and Unfair Trade Practices Act to credit
4 unions; amending s. 501.212, F.S.; exempting credit
5 unions from regulation under the Florida Deceptive and
6 Unfair Trade Practices Act; providing an effective
7 date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (4) of section 501.212, Florida
12 Statutes, is amended to read:

13 501.212 Application.—This part does not apply to:

14 (4) Any person or activity regulated under laws
15 administered by:

16 (a) The Office of Insurance Regulation of the Financial
17 Services Commission;

18 (b) Banks, credit unions, and savings and loan
19 associations regulated by the Office of Financial Regulation of
20 the Financial Services Commission;

21 (c) Banks, credit unions, and ~~or~~ savings and loan
22 associations regulated by federal agencies; or

23 (d) Any person or activity regulated under the laws
24 administered by the former Department of Insurance which are now
25 administered by the Department of Financial Services.

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26 Section 2. This act shall take effect July 1, 2017.