



Conference Committee on Professional Deregulation

House Offer #3

Meeting Packet

Friday, April 29, 2011, 12:45 p.m.

Room 401 Senate Office Building

**Conference Committee on Professional Deregulation
Conforming Bills Comparison - House Offer #3
Budget Conference for FY 2011-2012**

| | HOUSE | SENATE | HOUSE OFFER #1 | SENATE OFFER #1 | HOUSE OFFER #2 | SENATE OFFER #2 | HOUSE OFFER #3 |
|---|--|---------------------|-----------------------|------------------------|---|---|---|
| 1 | HB 5005 - Deregulation of Professions and Occupations | No Senate Companion | | | | | |
| 2 | Section 1. Amends s. 20.165, F.S., deleting provisions establishing the Florida Board of Auctioneers. | | HOUSE | SENATE | ACCEPT SENATE POSITION | CLOSED | CLOSED |
| 3 | Sections 2.-4. Repeal chapter 326, F.S., relating to the licensure of yacht and ship brokers and salespersons and conforming provisions in ss. 212.06 and 213.053, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 4 | Sections 5. & 6. Repeal part VI of chapter 468, F.S., relating to the licensure of auctioneers, apprentices, and auction businesses, the Florida Board of Auctioneers, the Auctioneer Recovery Fund, and the conduct of auctions; and conforming provisions in s. 538.03, F.S. | | HOUSE | SENATE | HOUSE Revised House position to deregulate only Auctioneer Apprentices and provide an exemption for out of state auctioneers to practice in Florida at contest only. | SENATE MODIFIED Revised to continue the regulation of apprentices but to accept the exemption for out of state auctioneers to practice in Florida at contest only (from House Offer #2). | HOUSE Revised House position to deregulate only Auctioneer Apprentices and provide an exemption for out of state auctioneers to practice in Florida at contest only. REVISED LANGUAGE FOR EXEMPTION IN PACKET |
| 5 | Section 7. Repeals part VII of chapter 468, F.S., relating to the licensure and regulation of talent agencies. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 6 | Section 8. Repeals part IX of chapter 468, F.S., relating to the licensure and regulation of athlete agents. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 7 | Sections 9.-13. Amend s. 477.0132, F.S., repealing the registration of specialists of hair braiding, hair wrapping, and body wrapping; and conforming provisions in ss. 477.019, 477.026, 477.0265, and 477.029, F.S. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 8 | Sections 14.-16. Repeal ss. 481.2131 and 481.2251, F.S., repealing the registration of interior designers; and conforming provisions in ss. 481.201, and 481.203, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |

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|----|--|---------------|-----------------------|------------------------|-----------------------|------------------------|------------------------|
| 9 | Section 17. Amends s. 481.205, F.S., changing the name of the Board of Architecture and Interior Design, to conform; revising membership of the board; conforming provisions. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 10 | Sections 18.-31. Amend ss. 481.207, 481.209, 481.211, 481.213, 481.215, 481.217, and 481.219, 481.221, 481.222, 481.223, 481.229, 481.231, 553.79, and 558.002, F.S., conforming provisions to the repeal of the regulation of interior designers. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 11 | Sections 32.-44. Repeal chapter 496, F.S., relating to the registration of professional fundraising consultants and professional solicitors and the regulation of solicitation of charitable contributions and charitable sales promotions; and conforming provisions in ss. 110.181, 316.2045, 320.023, 322.081, 413.033, 550.0351, 550.1647, 741.0305, 775.0861, 790.166, 843.16, and 849.0935, F.S. | | HOUSE | SENATE | HOUSE | SENATE | Accept Senate Position |
| 12 | Section 45. Repeals s. 500.459, F.S., relating to the regulation of water vending machines and the permitting of water vending machine operators. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 13 | Section 46. Amends s. 500.511, F.S., deleting provisions for the deposit of operator permitting fees, the enforcement of the state's water vending machine regulations, penalties, and the preemption of county and municipal water vending machine regulations, to conform. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 14 | Sections 47. & 48. Repeal ss. 501.012-501.019, F.S., relating to the registration of health studios and the regulation of health studio services; and conforming provisions in s. 501.165, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |

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|-------|--|--------|----------------|-----------------------|----------------|-----------------------|----------------|
| 15 | Sections 49. & 50. Repeal s. 501.143, F.S., relating to the Dance Studio Act, the registration of ballroom dance studios, and the regulation of dance studio lessons and services; and conforming provisions in s. 205.1969, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 16 | Sections 51.-56. Repeal part IV of chapter 501, F.S., relating to the Florida Telemarketing Act, the licensure of commercial telephone sellers and salespersons and the regulation of commercial telephone solicitation; and conforming provisions in ss. 205.1973, 501.165, 648.44, 772.102, and 895.02, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 17 | Sections 57. & 58. Repeal chapter 507, F.S., relating to the registration of movers and moving brokers and the regulation of household moving services; and conforming provisions in ss. 205.1975, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 18 | Sections 59. & 60. Amend s. 509.242, F.S., removing the license classifications of "rooming house" from public lodging establishments for purposes of provisions regulating such establishments; and conforming provisions in s. 509.221, F.S. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 19 | Section 61. Repeals chapter 555, F.S., relating to the regulation of outdoor theaters in which audiences view performances from parked vehicles. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 20 | Section 62. Repeals part VIII of chapter 559, F.S., relating to the Sale of Business Opportunities Act and the regulation of certain business opportunities. | | HOUSE | SENATE | HOUSE | ACCEPT HOUSE POSITION | CLOSED |

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|----|--|---------------|-----------------------|------------------------|------------------------|------------------------|-----------------------|
| 21 | Sections 63.-66. Repeal part IX of chapter 559, F.S., relating to the registration of motor vehicle repair shops, the Motor Vehicle Repair Advisory Council, and the regulation of motor vehicle repair; and conforming provisions in ss. 320.27, 445.025, and 713.585, F.S. | | HOUSE | SENATE | ACCEPT SENATE POSITION | CLOSED | CLOSED |
| 22 | Sections 67.-72. Repeal part XI of chapter 559, F.S., relating to the Florida Sellers of Travel Act, the registration of sellers of travel, certification of certain business activities, and the regulation of prearranged travel, tourist-related services, tour-guide services, and vacation certificates; and conforming provisions in ss. 205.1971, 501.604, 501.608, 636.044, and 721.11, F.S. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 23 | Section 73. Repeals s. 686.201, F.S., relating to contracts with sales representatives involving commissions. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 24 | Section 74. Repeals s. 817.559, F.S., relating to the labeling of television picture tubes. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 25 | Section 75. Provides an effective date. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 26 | HB 5007 - Reducing and Streamlining Regulations | | | | | | |
| 27 | Section 1. Transfers responsibility for distribution of a motor vehicle consumer's rights pamphlet to a motor vehicle owner from the Department of Agriculture and Consumer Services to the Department of Legal Affairs. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 28 | Section 2. Providing for the release of certain driver license information by the Department of Highway Safety and Motor Vehicles to the Department of Business and Professional Regulation under certain circumstances. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |

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|----|---|---------------|---|--|------------------------|------------------------|-----------------------|
| 29 | Section 3. Providing alternative criteria for obtaining a home inspector's license. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 30 | Section 4. Exempts home inspectors from mold assessment licensure requirements. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 31 | Section 5. Eliminates the requirements for a 2 year college degree and specific years of experience. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 32 | Section 6. Revising the training requirements for mold assessors and remediators to remove water, mold, and respiratory protection. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 33 | Section 7. Revising the training requirements for mold assessors and remediators to remove water, mold, and respiratory protection. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 34 | Section 8. Reduces years of experience and invoices requires for licensure. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 35 | Section 9. Deletes the requirements for a licensed Asbestos Consultant or Contractor's sole proprietorship to obtain an additional license. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 36 | Sections 10 through 20. Updates references to current Federal Law. | | Revised language makes technical and clarifying corrections to the bill as it relates to the Uniform Standards of Professional Appraisal Practice provisions. | ACCEPT HOUSE POSITION, except on line 205 of the revised House language, replace term "adopted by the Appraiser" to "developed by the Appraisal" | ACCEPT SENATE POSITION | CLOSED | CLOSED |
| 37 | Section 21. Deletes criminal penalties for persons who violate orders or rules of the Florida Real Estate Commission, persons who violate orders or rules of the Florida Real Estate Appraisal Board or related grounds for disciplinary action. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |

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| 38 | Sections 22 & 23. Delete criminal penalties for persons who violate orders or rules of the Florida Real Estate Commission, persons who violate orders or rules of the Florida Real Estate Appraisal Board or related grounds for disciplinary action. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 39 | Section 24. Deletes criminal penalties for persons who commit certain violations of the Florida Cosmetology Act or rules of the Board of Cosmetology. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 40 | Section 25. Reducing continuing education requirements for reactivating professional licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 41 | Section 26. Reducing continuing education requirements for reactivating Home Inspector licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 42 | Section 27. Reducing continuing education requirements for reactivating Mold Assessor and Remediator licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 43 | Section 28. Reducing continuing education requirements for reactivating Cosmetology licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 44 | Section 29. Reducing continuing education requirements for reactivating Architect licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 45 | Section 30. Reducing continuing education requirements for reactivating Landscape Architect licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 46 | Section 31. Reducing continuing education requirements for reactivating Construction Contractor licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 47 | Section 32. Reducing continuing education requirements for reactivating Electrical Contractor licenses. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |

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| 48 | Section 33. Allows accountants with a Masters degree from an accredited state college or university to be licensed without course reviews. Allows a CPA licensed in another state with 5 years of experience in the field of public accountancy to become licensed in Florida if all applicable fees are paid to the department regardless of the scope of the applicant's out of state course work. | Revised language to clarify that a master's degree in accounting, or its equivalent, is a satisfactory education level to apply for a Certified Public Accountant license. | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 49 | Section 34. Revising the post licensure education requirements for real estate brokers and sales associates. | Revised language to clarify that initial licensure and postlicensure requirements do not apply to applicants for Real Estate Broker who holds specific education degrees. | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 50 | Section 35. Deletes the requirements for a licensed Architects' sole proprietorship to obtain an additional license. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 51 | Section 36. Authorizes Landscape Designers to submit plan to government agencies for approval. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 52 | Section 37. Revising requirements for the method of payment of certain fees to not require check payments be certified. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 53 | Section 38. Revising requirements for the method of payment of certain fees to not require check payments be certified. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 54 | Section 39. Revising terminology for reposessor schools and training facilities. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 55 | Section 40. Revising requirements for the method of payment of certain fees to not require check payments be certified. | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |

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|----|---|---------------|-----------------------|---|-------------------------------|---|--|
| 56 | Section 41. Revising terminology to conform. | | HOUSE | Revised language to conform to CS/CS/SB 1916, section 23. | ACCEPT SENATE POSITION | CLOSED | CLOSED |
| 57 | Section 42. Providing and revising definitions for purposes of the Florida Food Safety Act. | | HOUSE | SENATE | HOUSE | ACCEPT HOUSE POSITION | CLOSED |
| 58 | Section 43. Providing penalties for food safety violations committed by cottage food operations. | | HOUSE | SENATE | HOUSE | SENATE MODIFY Revised Senate position to accept House Position with amendments to change the label to provide that it is not subject to routine inspections by DACS and provide that the food items are not for resale. | HOUSE REVISED Accept Senate modified language except the prohibition to resale Cottage Foods. REVISED LANGUGAE IN PACKET |
| 59 | Section 44. Exempting cottage food operations from food permitting requirements; limiting the annual gross sales of cottage food operations and the persons who whom cottage food products may be sold; requiring certain packaging and labeling of cottage food products; limiting the sale of cottage food products to certain locations; prohibiting the resale of cottage food products; providing for application; authorizing the Department of Agriculture and Consumer Services to investigate complaints and enter into the premises of a cottage food operation. | | HOUSE | SENATE | HOUSE | ACCEPT HOUSE POSITION | CLOSED |
| 60 | Section 45. Deleting authority for the department to enforce certain prohibitions against unconscionable practices during a declared state of emergency. | | HOUSE | Revised language to conform to CS/CS/SB 1916, section 31. | ACCEPT SENATE POSITION | CLOSED | CLOSED |

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| 61 | Section 46. Revising which matters relating to the regulation of public lodging establishments and food service establishments are preempted to the state. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 62 | Section 47. Authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to require certain public lodging establishments and public food service establishments to complete certain food safety training. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 63 | Section 48. Revises requirements for Home Inspectors conducting hurricane mitigation inspections. | | HOUSE | SENATE | HOUSE | SENATE | HOUSE |
| 64 | Section 49. Increases inactive license period from 2 years to 8 years for Fire Sprinkler Installers. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 65 | Sections 50 through 56. Transferring certain responsibilities of the Division of Consumer Services of the Department of Agriculture and Consumer Services for the Motor Vehicle Warranty Enforcement Act to the Department of Legal Affairs; authorizing the Department of Legal Affairs to adopt rules; conforming provisions. | | Revises sections 51-54 to make technical changes to conform to SB 1916. | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 66 | Section 57. Related to the transfer of Lemon Law from DAGS to DLA | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 67 | Section 58. Provides that Chapter 2010-84, Laws of Florida, regarding real estate appraisal management companies will not take effect until July 1, 2014. This change will allow time for the federal regulators to promulgate their rules. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 68 | Section 59. Provides an effective date of July 1, 2011, except as otherwise provided in the act. | | HOUSE | ACCEPT HOUSE POSITION | CLOSED | CLOSED | CLOSED |
| 69 | Additional Items | | | | | | |

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| 70 | Title Insurance Agents | | Study of Title Insurance Agents by DFS | SENATE | Study of Title Insurance Agents by DFS | ACCEPT HOUSE POSITION | CLOSED |
| 71 | Fee Waiver by DBPR | | | Attached language from section 2 of CS/CS/SB 1824 provides for the waiver of fees for DBPR on a case-by-case basis for financial hardship or error caused by the department | ACCEPT SENATE POSITION | CLOSED | CLOSED |
| 72 | CPA Peer Review | | | Attached language from sections 18-21 of CS/CS/SB 1824 which creates a CPA peer-review oversight process. | HOUSE | SENATE | HOUSE |
| 73 | Architecture and Interior Design | | | | NEW SENATE LANGUAGE Attached language added to provide that the Board of Architecture and Interior Design may contract for services. | | HOUSE |

Amendment No.

CHAMBER ACTION

Senate

House

Removes complete repeal of regulation of auctioneers and apprentices. Requires licensure of auctioneers and auctioneer businesses. Removes license requirements for apprentices (retains training requirements to sit for the auction examination for licensure) Maintains the five member board and the recovery fund. Exempts auctioneers involved in motor vehicle auctions conducted as part of sanctioned contests from licensure requirements.

1 Representative(s) **Insert Sponsor** offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line(s) 208-219 and insert:

5 Section 5. Section 468.381, Florida Statutes, is amended
6 to read:

7 468.381 Purpose.—The Legislature finds that unqualified
8 auctioneers ~~and apprentices~~ and unreliable auction businesses
9 present a significant threat to the public. It is the intent of
10 the Legislature to protect the public by creating a board to

Amendment No.

11 regulate auctioneers, ~~apprentices~~, and auction businesses and by
12 requiring a license to operate.

13 Section 6. Subsection (10) is added to section 468.383,
14 Florida Statutes, to read:

15 468.383 Exemptions.—This act does not apply to the
16 following:

17 (10) Motor vehicle auctions, as defined in s.
18 320.27(1)(c)4, conducted by auctioneers licensed in other states
19 when such auctions are held for the purpose of conducting
20 sanctioned contests among auctioneers, provided an auctioneer
21 licensed pursuant to this part is on site to monitor such
22 sanctioned contest.

23 Section 7. Subsection (3) of section 468.384, Florida
24 Statutes, is amended to read:

25 468.384 Florida Board of Auctioneers.—

26 (3) The board shall receive and act upon applications for
27 auctioneer, ~~apprentice~~, and auction business licenses and shall
28 have the power to issue, suspend, and revoke such licenses and
29 to take such other action as is necessary to carry out the
30 provisions of this act.

31 Section 8. Subsections (3) and (5), paragraph (a) of
32 subsections (6) and subsection (7) and subsection (8) of section
33 468.385, Florida Statutes, are amended to read:

34 468.385 Licenses required; qualifications; examination.—

35 (3) No person shall be licensed as an auctioneer ~~or~~
36 ~~apprentice~~ if he or she:

37 (a) Is under 18 years of age; or

Amendment No.

38 (b) Has committed any act or offense in this state or any
39 other jurisdiction which would constitute a basis for
40 disciplinary action under s. 468.389.

41 (5) Each apprentice ~~application and license~~ shall name a
42 licensed auctioneer who has agreed to serve as the supervisor of
43 the apprentice. No apprentice may conduct, or contract to
44 conduct, an auction without the express approval of his or her
45 supervisor. The supervisor shall regularly review the
46 apprentice's records, which are required by the board to be
47 maintained, to determine if such records are accurate and
48 current.

49 (6) No person shall be licensed as an auctioneer unless he
50 or she:

51 (a) ~~Has held an apprentice license and has served as an~~
52 apprentice for 1 year or more, or has completed a course of
53 study, consisting of not less than 80 classroom hours of
54 instruction, that meets standards adopted by the board;

55 (7) (a) Any auction that is subject to the provisions of
56 this part must be conducted by an auctioneer who has an active
57 license or an apprentice ~~who has an active apprentice auctioneer~~
58 ~~license and~~ who has received prior written sponsor consent.

59 (b) No business shall auction or offer to auction any
60 property in this state unless it is licensed as an auction
61 business by the board or is exempt from licensure under this
62 act. Each application for licensure shall include the names of
63 the owner and the business, the business mailing address and
64 location, and any other information which the board may require.

Amendment No.

65 The owner of an auction business shall report to the board
66 within 30 days of any change in this required information.

67 (8) A license issued by the department to an auctioneer,
68 ~~apprentice,~~ or auction business is not transferable.

69 Section 9. Subsection (8) is repealed, subsections (9) and
70 (10) are renumbered as subsections (10) and (11) , respectively
71 of section 468.3855, Florida Statutes, are amended to read:

72 468.3855 Apprenticeship training requirements.-

73 ~~(8) All apprentice applications shall be valid for a~~
74 ~~period of 6 months after board approval. Any applicant who fails~~
75 ~~to complete the licensure process within that time shall be~~
76 ~~required to make application as a new applicant.~~

77 (8) ~~(9)~~ Any licensed apprentice who wishes to change the
78 sponsor under whom he or she is supervised ~~licensed must submit~~
79 ~~a new application and application fee. However, a new license~~
80 ~~fee shall not be required and credit shall be awarded for~~
81 ~~training received or any period of apprenticeship served under~~
82 ~~the previous sponsor.~~

83 (9) ~~(10)~~ Credit for training received or any period of
84 apprenticeship served shall not be allowed unless it occurred
85 under the supervision of the sponsor ~~under whose supervision the~~
86 ~~apprentice is licensed.~~

87 Section 10. Subsection (4) and paragraph (b) of subsection
88 (11) of section 468.388, Florida Statutes, are amended to read:

89 468.388 Conduct of an auction.-

90 (4) Each auction must be conducted by an auctioneer who
91 has an active license or by an apprentice ~~who has an active~~
92 ~~apprentice auctioneer license and who has received prior written~~

Amendment No.

93 sponsor consent. Each auction must be conducted under the
94 auspices of a licensed auction business. Any auctioneer or
95 apprentice auctioneer conducting an auction, and any auction
96 business under whose auspices such auction is held, shall be
97 responsible for determining that any auctioneer, apprentice, or
98 auction business with whom they are associated in conducting
99 such auction has an active Florida auctioneer, ~~apprentice,~~ or
100 auction business license.

101 (11) (b) No licensed auctioneer, ~~apprentice,~~ or auction
102 business may disseminate or cause to be disseminated any
103 advertisement or advertising which is false, deceptive,
104 misleading, or untruthful. Any advertisement or advertising
105 shall be deemed to be false, deceptive, misleading, or
106 untruthful if it:

- 107 1. Contains misrepresentations of facts.
- 108 2. Is misleading or deceptive because, in its content or
109 in the context in which it is presented, it makes only a partial
110 disclosure of relevant facts.
- 111 3. Creates false or unjustified expectations of the
112 services to be performed.
- 113 4. Contains any representation or claim which the
114 advertising licensee fails to perform.
- 115 5. Fails to include the name and license number of the
116 principal auctioneer and the auction business.
- 117 6. Fails to include the name and license number of the
118 sponsor if an apprentice is acting as the principal auctioneer.
- 119 7. Advertises an auction as absolute without specifying
120 any and all items to be sold with reserve or with minimum bids.

Amendment No.

121 8. Fails to include the percentage amount of any buyer's
122 premium or surcharge which is a condition to sale.

123 (d) The auction business shall be responsible for the
124 content of all advertising disseminated in preparation for an
125 auction.

126 Section 11. Section 468.391, Florida Statutes, is amended
127 to read:

128 468.391 Penalty.—Any auctioneer, apprentice, or auction
129 business or any owner or manager thereof, or, in the case of
130 corporate ownership, any substantial stockholder of the
131 corporation owning the auction business, who operates without an
132 active license or sponsorship or violates any provision of the
133 prohibited acts listed under s. 468.389 commits a felony of the
134 third degree, punishable as provided in s. 775.082 or s.
135 775.083.

136 Section 12. This act shall take effect July 1, 2011.

137
138

139 -----

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

141 Remove lines 9-13 and insert:

142 F.S., to conform; amending s. 468.381, F.S.; removing reference
143 to auctioneer apprentice; amending s. 468.383, F.S.; exempting
144 certain motor vehicle auctions; amending s. 468.384, F.S.;
145 removing reference to auctioneer apprentice; amending s.
146 468.385, F.S.; amending s. 468.3855, F.S.; removing reference to
147 auctioneer apprentice; removing reference to auctioneer
148 apprentice; amending s. 468.388, F.S.; removing reference to

HOUSE AMENDMENT

Bill No. CS/HB 5005 (2011)

Amendment No.

149 | auctioneer apprentice; amending s. 468.391, F.S.; adding
150 | reference to apprentice sponsorship; amending s. 538.03, F.S.,
151 | to conform; repealing part VII

Sections changed are in bold.

Section 44. Section 500.80, Florida Statutes, is created to read:

500.80 Cottage food operations.-

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

(b) For purposes of this subsection, a cottage food operation's annual gross sales include all sales of cottage food products at any location, regardless of the types of products sold or the number of persons involved in the operation. A cottage food operation must provide the department, upon request, with written documentation to verify the operation's annual gross sales.

(2) A cottage food operation may not sell or offer for sale cottage food products over the Internet, by mail order, or at wholesale.

(3) A cottage food operation may only sell cottage food products which are prepackaged with a label affixed that contains the following information:

(a) The name and address of the cottage food operation.

(b) The name of the cottage food product.

(c) The ingredients of the cottage food product, in descending order of predominance by weight.

(d) The net weight or net volume of the cottage food product.

(e) Allergen information as specified by federal labeling requirements.

(f) If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements.

(g) The following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: "**Made in a cottage food operation that is not subject to routine inspection by the Department of Agriculture and Consumer Services.**"

(4) A cottage food operation may only sell cottage food products that it stores on the premises of the cottage food operation.

(5) This section does not exempt a cottage food operation from any state or federal tax law, rule, regulation, or certificate that applies to all cottage food operations.

(6) A cottage food operation must comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products by a cottage food operation or from a person's residence.

(7) (a) The department may investigate any complaint which alleges that a cottage food operation has violated an applicable provision of this chapter or rule adopted under this chapter.

(b) Only upon receipt of a complaint, the department's authorized officer or employee may enter and inspect the premises of a cottage food operation to determine compliance with this chapter and department rules, as applicable. A cottage food operation's refusal to permit the department's authorized officer or employee entry to the premises or to conduct the inspection is grounds for disciplinary action pursuant to s. 500.121.

(8) This section does not apply to a person operating under a food permit issued pursuant to s. 500.12.