

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JEC 07-02 Department of Business and Professional Regulation
SPONSOR(S): Jobs & Entrepreneurship Council
TIED BILLS: **IDEN./SIM. BILLS:** CSSB 2398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council		Livingston	Thorn
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes changes to several statutory provisions for professions regulated by the Department of Business and Professional Regulation (DBPR). It provides that:

- The DBPR is authorized to contract to collect electronic fingerprinting when fingerprints or a criminal history is required;
- Continuing education providers must report continuing education credits electronically within 10 days of course completion if the course is completed in the last month before a licensee's renewal date;
- The Construction Industry Licensing Board (CILB) must require one hour of laws and rules as a part of continuing education training for contractors;
- The CILB may adopt rules that allow applicants to demonstrate financial responsibility by providing credit scores or bonds;
- Construction contractor licensure applicants must submit and pay for fingerprints for the completion of a level 2 background check;
- The DBPR may refuse to issue, refuse to renew, or revoke the certificate of a farm labor contractor who has been convicted of certain crimes;
- Real estate licensees are allowed to attend a Florida Real Estate Commission (FREC) disciplinary case session for continuing education credit;
- The Division of Real Estate rather than the Real Estate Appraisal Board may allow an additional 6-month period after the second renewal following initial licensure for completing post licensure education courses for registered trainee appraisers who have not completed or cannot complete the courses due to individual hardship.

Fiscal

There is no significant fiscal impact to the Department of Business and Professional Regulation. Any costs will be absorbed within existing resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government; ensure lower taxes; safeguard individual liberty; promote personal responsibility; empower families; maintain public security:

The DBPR states that the bill is designed to “improve the services provided to the Department’s licensees through streamlined application and renewal processes.” “In addition, the bill provides new options for completing continuing education.”

B. EFFECT OF PROPOSED CHANGES:

General Licensing

Chapter 455, F.S., provides general licensing provisions for the DBPR. The provisions of the chapter only apply to regulation by the DBPR of professions. Section 455.213, F.S., provides for the general licensing provisions for the DBPR. It provides for various applications and forms to be submitted. Under s. 455.213, F.S., the DBPR may allow for submissions by a licensee be done by electronic means.

The bill amends s. 455.213(11), F.S., to provide that any required written submissions for application of licensure may also be required to be submitted electronically. It allows the DBPR to require and contract for the collection of electronic fingerprints, where fingerprints are required as part of the application process or where criminal history record checks are required.

Continuing Education Providers

Under s. 455.2178(1), F.S. a continuing education provider must provide information to the DBPR regarding the continuing education status of a licensee in an electronic format no later than 30 calendar days after a licensee’s completion of a course or prior to the licensee’s renewal date, whichever occurs sooner.

The bill amends s. 455.2178(1), F.S., to require the continuing education provider to electronically report to the DBPR regarding the completion of a licensee’s course within 10 business days beginning on the 30th day before the renewal deadline or before the renewal date, whichever occurs sooner.

Construction Contractors

Chapter 489, part I, F.S., governs the regulation of the construction industry. Applicants for initial issuance or renewal of licensure must provide proof of financial responsibility by furnishing to the CILB a nationally recognized credit report, and evidence of financial responsibility, credit, and business reputation. The CILB is required to adopt rules “defining financial responsibility based upon the applicant’s credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers.” The rules are required to specify the grounds for disqualification based on lack of financial responsibility. The net worth standards under the rules were found to lack statutory authority.

The bill amends s. 489.115(4)(b)1., F.S., to require one hour of laws and rules education for contractors. It amends s. 489.115(5)(b), F.S., to allow the CILB to adopt rules that would allow applicants to demonstrate financial responsibility, as an alternative to the supplying credit history, ability to be bonded and bankruptcy history, by providing minimum credit scores or bonds payable as prescribed for financially responsible officers.

The bill creates s. 489.115(8), F.S. to require an initial applicant to submit a complete set of fingerprints in a format specified by the DBPR. The fingerprints must be submitted to the Department of

Law Enforcement who then must forward them to the Federal Bureau of Investigation for a level 2 background check. The applicant must pay for the fingerprint processing.

Farm Labor Registration

Section 450.271, F.S., provides that the DBPR may enter into agreements with the Secretary of Labor of the United States to authorize the DBPR to administer the Migrant and Seasonal Agricultural Worker Protection Act of 1983 within the state.

Farm labor contractors are persons who recruit, transport into or within the state, supply, or hire farm workers to work for a third person or direct, supervise, or control the work.

Farm labor contractors are required to be registered with the DBPR. The DBPR has the authority to issue, revoke, suspend and refuse to issue or renew a certificate of registration if they have committed in connection with, any farm labor contracting activities any felony under state or federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the country illegally.

The bill deletes language in s. 450.31(5)(b), F.S., providing that the DBPR can revoke or refuse to issue or renew a certificate of registration for certain felony acts committed within the preceding five years. The bill creates s. 450.31(6), F.S., to provide that the DBPR can permanently revoke or refuse to issue or renew a certificate of registration if the applicant or certificateholder has been convicted of a violation of narcotics law, murder, rape assault with intent to kill, assault that inflicts grievous bodily injury, prostitution, peonage, smuggling, or harboring individuals who have entered the country illegally.

This language takes away the five year requirement when considering certain felony violations and allows for the DBPR to permanently revoke a person's license if the person has been convicted of any of the listed felonies.

Chapter 475, part I, F.S., Real Estate Brokers and Sales Associates

Chapter 475, part I, F.S., regulates real estate brokers and sales associates [and real estate schools]. The DBPR is required to renew a license upon the receipt of the renewal application and fee. The renewal application is required to show proof satisfactory to the FREC that the applicant has satisfactory completed at least 14 classroom hours of 50 minutes each during each biennium license period as prescribed by the FREC.

Currently, under s. 475.182(2), F.S., real estate licensee cannot obtain continuing education credits for attendance at a FREC meeting.

The bill creates s. 475.182(2), F.S., to provide that the FREC may accept attendance at a legal agenda session as a substitute for three classroom hours once per renewal cycle. The licensee must notify the division seven days in advance of his or her intention to attend the session.

Chapter 475, part II, F.S., Real Estate Appraisers

Chapter 475, part II, F.S., regulates real estate appraisers. To be registered as a "trainee appraiser", the applicant must present evidence to the Florida Real Estate Appraisers Board that he or she has successfully completed at least 100 hours of approved academic courses.

Section 475.6175, F.S., provides that the Florida Real Estate Appraisers Board shall prescribe post-licensure "educational requirements in order for a person to maintain registration as a registered trainee appraiser." Section 475.6175(2), F.S., provides that the "registration of any registered trainee appraiser who does not complete the board-prescribed [post-licensure] educational requirements prior to the second renewal following initial registration is void without further administrative action." A person

whose registration is voided must retake the required education and meet the other requirements to re-qualify to be registered as a registered trainee appraiser.

Under s. 475.617(3), F.S., the Florida Real Estate Appraisers Board can grant licensees a six month extension in order to complete mandatory post licensing education. The extensions can only be granted for medical hardship.

The bill amends s. 475.6175(3), F.S., to provide that the Division of Real Estate rather than the Real Estate Appraisal Board may allow an additional 6-month period after the second renewal following initial licensure for completing post licensure education courses for registered trainee appraisers who have not completed or cannot complete the courses, due to individual hardship.

According to the DBPR, this amendment helps the nearly four thousand licensed real estate appraiser trainees whose licenses went null and void due to an education requirement change in the statute that was not properly communicated to the licensees.

C. SECTION DIRECTORY:

Section 1. Amends s. 455.213, F.S. to authorize electronic fingerprinting when fingerprints or a criminal history is required.

Section 2. Amends s. 455.2178, F.S., to require continuing education providers to report continuing education credits electronically within 10 days of course completion.

Section 3. Amends s. 489.115, F.S., to require the CILB to require one hour of laws and rules as a part of continuing education training for contractors, to require the CILB to adopt rules that allow applicants to demonstrate financial responsibility by providing credit scores or bonds, and to require construction contractor licensure applicants to submit and pay for fingerprints for the completion of a level 2 background check.

Section 4. Amends s. 450.31, F.S., to allow the DBPR to refuse to issue, refuse to renew, or revoke the certificate of a farm labor contractor who has been convicted of certain crimes.

Section 5. Amends s. 475.182, F.S., to allow real estate licensees to attend a FREC disciplinary case session for continuing education credit.

Section 6. Amends s. 475.6175, F.S., to specify that the Division of Real Estate may allow an additional 6-month extension for completing post licensure education courses for registered trainee appraisers.

Section 7. Effective date - upon becoming a law.

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:

The applicant is required to pay the costs associated with background checks and the processing of fingerprints. The current fingerprinting cost of \$47.00 will be increased by the \$14.00 processing fee charged by the electronic fingerprinting vendor used by the Department. However, the background check will be expedited from the current 6 to 8 week timeframe to a 2 to 6 day turnaround, allowing the applicant to enter the workforce faster.

D. FISCAL COMMENTS:

There is no significant fiscal impact to the Department of Business and Professional Regulation. Any costs will be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill requires the CILB to adopt rules to allow applicants to demonstrate financial responsibility by providing credit scores or bonds.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES