

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 425 Regulation of Professions

SPONSOR(S): Plakon

TIED BILLS: IDEN./SIM. BILLS: SB 842

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Livingston	Cooper
2)	General Government Policy Council			
3)	Government Operations Appropriations Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The bill contains numerous modifications relating to several programs under the Department of Business and Professional Regulation (DBPR). The bill:

- deletes the general requirement that an application for licensure include a notarized signature of the applicant in order to facilitate electronic correspondence;
- deletes the authority for a professional board or the DBPR to require a state law and rule portion of an examination;
- adds to the list of grounds for discipline of a licensee to include failure to report to the DBPR any prosecution in a court of law and failure to complete a treatment program by an impaired practitioner;
- specifies that a DBPR representative may voluntarily appear in a criminal proceeding against a licensee in order to provide pertinent information;
- allows the DBPR to reduce the \$5 special unlicensed activity fee to an amount “not to exceed \$5 per licensee” and to establish the actual fee amount for each profession by rule;
- authorizes the DBPR to adopt rules to waive the \$5 unlicensed activity fee for professions deemed by the DBPR to have sufficient funds in the respective operating fund account and the unlicensed activity account to support anticipated functions and expenditures;
- removes the allowance for a practical part of a barber’s examination and requires that the barber’s examination include a written test only;
- removes the requirement that applicants for registered construction contractor and registered electrical contractor licenses provide a copy of a local occupational license;
- removes the requirement that an applicant obtain a certificate of authority for a business organization when the applicant proposes to engage in construction contracting under a business organization structure and requires an applicant for a contractor’s license to apply to the DBPR to act as the qualifying agent of the business organization as a part of the licensure requirement for registration or certification as a contractor;
- authorizes the Electrical Contractors Licensing Board to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds;
- specifies that the Florida State Boxing Commission must approve the sanctioning organization for amateur mixed martial arts events; and
- deletes the requirements that certain public lodging establishments post rate schedules in each rentable unit and deletes certain limitations on the ability of public lodging establishments to advertise room rates.

Fiscal - The DBPR notes that “the bill reduces unnecessary regulatory burdens to assist individuals who are licensed under Chapter 455 or apply for licensure” with the DBPR. Revenue reductions are projected by the DBPR to approach \$3m in FY 2009-10, \$600,00K in FY 2010-11, and \$3M in FY 2011-12 reflecting a savings in expenditures by practitioners and the DBPR.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 20.165, F.S., establishes the organizational structure of the DBPR and includes the Division of Professions. It also establishes other divisions to include the divisions of: Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Florida Land Sales, Condominiums, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Real Estate; Regulation; and Technology, Licensure, and Testing. This section also establishes the authority and structure of the various boards within the DBPR. The Florida State Boxing Commission is also housed within the DBPR pursuant to s. 548.003, F.S.

Chapter 455, F.S., specifies the general powers of the DBPR. Each profession is administered either directly by the DBPR or through a separately appointed board, council, or commission. Section 455.01, F.S., defines the term "profession" to mean:

"any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation."

The bill contains numerous modifications relating to several programs under the DBPR.

See below, section directory portion of this analysis.

B. SECTION DIRECTORY:

The following section-by-section analysis includes the Present Situation and Effect of Proposed Changes for referenced sections of the bill where appropriate.

General Licensing

Chapter 455, F.S., provides general licensing provisions for the DBPR. Under s. 455.213, F.S., the DBPR may allow submissions and other communications be provided by electronic means.

Section 1.

The bill amends s. 455.213(11), F.S., to remove the general requirement in chapter 455, F.S. that an application for licensure include a notarized signature of the applicant on the application document. This change is designed to facilitate computerization and e-processing by the DBPR and the e-submission of information by an applicant.

The bill also specifies that, for purposes of compliance with the timelines under the Administrative Procedures Act, chapter 120, F.S., an application is considered received by the DBPR when documents are received in a DBPR approved format and all applicable fees are paid.

Other sections of the bill relating to notarized signatures include the following in numerical order:

Section 10 amends s. 475.175, F.S., to remove the signature requirement for real estate licensure.

Section 12 amends s. 475.615, F.S., to remove the signature requirement for real estate appraiser licensure.

Examinations

The DBPR processes applications for licensure and license renewal. Section 455.217, F.S., allows a board, or the DBPR, pursuant to the general powers of s. 455.217, F.S., if there is no board, to require the successful passage of questions relating to state laws and rules as a part of the examination for licensure. These questions are required to be related to the practice of the profession regulated by the respective board or by the DBPR.

Section 2.

The bill removes the authority for a board or the DBPR to require a state law and rule portion of an examination.

Other sections of the bill that remove the reference to law and rule examinations include the following in numerical order:

Section 6 amends s. 473.305, F.S., to remove the reference to law and rule examinations for CPA's.

Section 8 amends s. 473.311, F.S., to remove the reference to law and rule examinations for license renewal for CPA's.

Section 9 amends s. 473.313, F.S., to remove the reference to law and rule examinations for activating an inactive CPA license.

Discipline

Currently, s. 455.227, F.S., specifies grounds for disciplinary action by a board or the DBPR. These provisions include, among others, violating any provision of this chapter, the applicable professional practice act, a rule of the DBPR or a board; having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against by the licensing authority of "any" jurisdiction for a violation that would constitute a violation under Florida law; and being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in "any" jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

The DBPR points out that "currently, there is no duty on the part of a licensee to report a plea of nolo contendere to a crime or conviction of a crime" to the DBPR.¹

Currently, s. 456.076, F.S., specifies in part for health care practitioners:

"professions that do not have impaired practitioner programs provided for in their practice acts, the department [of health] shall, by rule, designate approved impaired practitioner programs under this section. The department may adopt rules setting forth appropriate criteria for approval of treatment providers."

¹ DBPR Office of Legislative Affairs, 2009 Legislative Analysis Form, HB 425, on file with the Insurance, Business, & Financial Affairs Committee.

Department is defined as the Department of Health. Similar authority for the treatment of impaired practitioners licensed by the DBPR is specified under s. 455.227(2)(f), F.S., to provide a penalty that may include:

“placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment...”

Section 3.

The bill adds to the list of grounds for discipline under s. 455.227(1), F.S., to include:

- failure for the licensee to report the plea to a crime or conviction of a crime to the board or if there is no board, to the department, within 30 days after conviction or entry of a plea to a crime in “any” jurisdiction; and
- termination from a treatment program for impaired practitioners for failure to comply, without good cause, with the terms for monitoring rehabilitation progress or success.

Also the bill makes technical conforming references in sections 26 through 37 to reflect the changes made by section 3 relating to discipline.

Criminal proceedings

Currently, s. 455.2273, F.S., establishes the authority for disciplinary guidelines that may be imposed against professions and provides, in part:

“that each board, or the DBPR when there is no board, adopt, by rule, the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board or the DBPR pursuant to this chapter, the respective practice acts, and any rule of the board or the DBPR.”

Section 455.2277, F.S., addresses criminal violations and provides:

“the DBPR or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the DBPR or appropriate board to the proper prosecuting authority for prompt prosecution.”

Section 4.

The bill creates s. 455.2274, F.S., to specify that a DBPR representative may voluntarily appear in a criminal proceeding against a licensee in order to provide pertinent information about the licensee, make recommendations for probation, or provide other assistance. Additionally, the bill specifies that the court is authorized to order a DBPR representative to testify in a criminal proceeding related to the license regulated by the DBPR.

Unlicensed activity

Section 455.2281, F.S., requires that professions licensed and regulated by the DBPR pay a \$5 unlicensed activity fee. Each profession has both an operating account and an unlicensed activity account, and transfers between the two are possible when authorized by the DBPR and the respective board to address changing funding needs. The unlicensed activity fees are used for activities designed to reduce the occurrence of non-licensed individuals engaging in activities that are regulated by the DBPR. The funds are also used for media advertisements intended to assist consumers with identifying and verifying licensed practitioners vs. non-licensed individuals.

Currently, practitioner licensing fees are set in statute at a maximum amount and may be suspended by the DBPR for a licensing cycle when excess cash has built up in a particular account. Section 455.219, F.S., provides that each board within the DBPR determine by rule the amount of license fees for a profession within the caps provided in statute. However the DBPR is still required by statute to mail renewal notices and process revenue collections for the \$5 unlicensed activity fee which cannot under current law be suspended when circumstances may warrant, such as excess cash balances.

Section 5.

The bill allows the DBPR to reduce the \$5 special unlicensed activity fee to an amount “not to exceed \$5 per licensee”. The DBPR is authorized to establish the actual fee amount for each profession by rule.

The bill also authorizes the DBPR to adopt rules to waive the \$5 unlicensed activity fee for professions deemed by the DBPR to have sufficient funds in the respective operating fund account and the unlicensed activity account to support anticipated functions and expenditures.

Accountancy licensure

A certified public accountant (CPA) is regulated under the jurisdiction of the Board of Accountancy, Division of Certified Public Accountants, within the DBPR. Qualifications for “licensure” include meeting the requirements for good moral character, formal education, and successful completion of a comprehensive licensure examination.

In order to take the CPA examination, certain education qualifications must be met including a baccalaureate degree plus at least 30 semester or 45 quarter hours of formal education in excess of the hours required for a degree. This is commonly referred to as the 5th year/150 hour requirement. An applicant for licensure may substitute five years of work experience for the extra education credits required beyond the baccalaureate degree.

An individual is allowed to sit for the CPA examination prior to achieving a college degree. The applicant is required to have completed 120 semester hours (or equivalent number of quarter hours). Though this is the normal number of hours for a degree, the applicant is not required to actually receive the degree or to complete the 5th year/150 hour requirement (to apply and sit for the examination) (these standards, and others, are required to be met for eventual “licensure”).

Beginning on January 1, 2009, an applicant for “licensure” must have one year of work experience to go along with the other requirements for “licensure.” The board is authorized to establish the work experience guidelines by rule.

Section 7.

The bill specifies that an individual does not have to meet the one year work experience requirement **if the applicant for “licensure”** has completed the educational requirements by December 31, 2008, and passes the examination before June 30, 2010.

Real estate brokers and sales associates – continuing education

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 Florida Real Estate Commission that the applicant has satisfactory completed continuing education hours as prescribed by rule of the Florida Real Estate Commission.

Section 475.451, F.S., provides that the continuing education requirements of this chapter do not apply to an “attorney” who is otherwise qualified under this chapter to conduct real estate related activities.

Section 11.

The bill further specifies by statute that to be exempt from the continuing education requirements the attorney must be "a certified member in good standing by the Florida Bar."

Barbers practical examination

In order to practice barbering services for compensation, an individual must have a barber license or restricted barber license approved by the Barbers' board and issued by the DBPR. A person holding a restricted barber's licenses is not permitted to provide services involving chemicals.

An individual can sit for the barber licensing examination after completing 1,000 school hours provided the individual meets other requirements for licensure. If the applicant fails to achieve a passing grade on either or both parts of the licensure examination, the applicant is required to complete an additional 200 school hours prior to retaking the examination.

Currently, section 476.134, F.S., authorizes the Barbers' board to adopt rules that may require practical demonstration by an applicant in addition to a written examination.

The DBPR notes that:

"An applicant for a barber's license must pass a written and a practical demonstration examination for licensure. Cosmetologists take only a written examination. The bill seeks to eliminate the practical examination for barbers. The practical exam is only once a month rotating between 3 locations and a candidate must bring a live model. The written exam is offered computer based at 22 sites across the state and can be taken when the candidate chooses."²

Section 13.

The bill removes the allowance for a practical part of a barber's examination and requires that the barber's examination include a written test only.

Registration – local occupational license

Chapter 489, F.S., requires that all individuals who practice construction contracting and electrical contracting in Florida must either be "certified" or "registered." Certified contractors are authorized to engage in contracting on a statewide basis. "Registration" allows an individual to practice contracting only in the jurisdiction that issues that individual's local license. This registration is issued by the DBPR upon proof of local licensure. Such proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements, if a local licensing requirement exists. Some local jurisdictions have rigorous standards for license issuance, such as experience and insurance requirements, and passage of an examination. Other local jurisdictions will issue a license for a nominal fee and may have little or no experience or examination requirements.

Section 16.

The bill removes the requirement that applicants for registered construction contractor licenses provide a copy of a local occupational license. Unlike the local contractor's license which must also be registered with the DBPR, the local occupational license does not demonstrate an applicant's qualifications to practice contracting.

² Id.

Section 22.

The bill removes the requirement that applicants for registered electrical contractor licenses provide a copy of a local occupational license. Unlike the local electrical contractor's license which must also be registered with the DBPR, the local occupational license does not demonstrate an applicant's qualifications to practice electrical contracting.

Construction business organizations – certificate of authority

As noted above, parts I, construction contracting, and II, electrical contracting, of chapter 489, F.S., require the certification or registration of contractors. Certified contractors are authorized to engage in contracting on a statewide basis, whereas registered contractors are limited to contracting within those counties in which they meet local, building department competency requirements.

Section 489.119 of part I and section 489.521 of part II of chapter 489, F.S., provide that when an individual engages in construction or electrical contracting in the individual's own name or a fictitious name where the individual is doing business as a sole proprietorship, certification or registration may be issued only to that individual.

However, if the applicant proposes to engage in contracting in any other type of business organization, such as a corporation or partnership, the business organization must apply for a certificate of authority through a licensed contractor acting as the organization's qualifying agent. As such, the qualifying agent must have a license reflecting that he or she is the qualifying agent of the business, and the business must possess a certificate of authority. Both the license and the certificate of authority are issued by the DBPR.

In actual practice the DBPR and industry practitioners refer to the "certificate of authority" of a business entity by the acronym "QB" license, Qualified Business license. The terms are synonymous.

Current law provides that the primary qualifying agent is responsible for the business organization's construction work and business practices.

Section 17.

The bill removes the requirement that an applicant obtain a certificate of authority for a business organization when the applicant proposes to engage in contracting under a business organization structure. The bill requires an applicant for a contractor's license to apply to the DBPR to act as the qualifying agent of the business organization as a part of the licensure requirement for a registration or certification as a contractor.

Section 14 amends s. 489.109 F.S., to make technical and conforming changes to delete a reference to "certificate of authority."

Section 15 amends s. 489.114, F.S., to make technical and conforming changes to delete a reference to "certificate of authority."

Section 18 amends s. 489.127, F.S., to make technical and conforming changes to delete a reference to "certificate of authority."

Section 19 amends s. 489.128, F.S., to make technical and conforming changes to delete a reference to "certificate of authority."

Section 20 amends s. 489.129, F.S., to make technical and conforming changes to delete a reference to "certificate of authority."

Section 21 amends s. 489.132, F.S., to make technical and conforming changes to delete a reference to “certificate of authority.”

Financial responsibility – electrical 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 for licensure based on lack of financial responsibility.

Section 489.115(5)(b), F.S., allows the CILB to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds.

Section 23 .

The bill amends s. 489.515, F.S., to allow the Electrical Contractors Licensing Board to adopt rules to allow applicants alternatives to demonstrate financial responsibility to include providing minimum credit scores or bonds, similar to the rule authority of the CILB.

Florida State Boxing Commission

Chapter 548, F.S., governs pugilistic matches in the state, which include boxing, kickboxing, and mixed martial arts. The Florida State Boxing Commission is authorized to administer the provisions of the chapter. By definition, “boxing” means to compete with the fists; “kickboxing” means to compete with fist, feet, legs, or any combination thereof; and “mixed martial arts” means unarmed combat involving the use, of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking.

Section 548.0065, F.S., provides that no boxing or kickboxing match involving amateurs may be held in Florida unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission. Provisions of chapter 548, F.S., provide for amateur mixed martial arts events in Florida to be sanctioned and supervised by amateur sanctioning organizations approved by the Florida State Boxing Commission.

Section 548.008, F.S., prohibits certain amateur matches unless sanctioned and supervised by an approved amateur sanctioning organization, any amateur mixed martial arts match, and any professional match from being held unless it meets the requirements of law and rules.

Currently, “match” is defined as “any contest or exhibition.”

Section 24.

The bill creates a definition of the term “event” to mean “one or more matches which make up a show.”

Section 25.

The bill specifies that the commission must approve the sanctioning organization for amateur mixed martial arts events.

Division of Hotels and Restaurants

The Division of Hotels and Restaurants within the DBPR is charged with protecting the public health, safety, and welfare by enforcing the provisions of chapter 509, F.S., and other laws relating to the inspection and regulation of public lodging establishments and public food service establishments.

Section 509.201, F.S., requires public lodging establishments renting by the day or week to post rate schedules in each rentable unit, showing the maximum amount charged for the unit rented, the amount charged for extra conveniences and the dates during the year when the maximum charges prevail. The rate schedules, along with any changes, must also be submitted to the division. The section also limits the ability of public lodging establishments to advertise their room rates: such advertisements must include additional information, including the number of rental units, the rates of each, whether the rates listed are for single or multiple occupancy, and the dates the rates are in effect. There is an exception for advertisements in guides or directories published by nonprofit organizations and for advertisements in classified sections of newspapers and other publications.

Violations of the notification requirements constitute a second degree misdemeanor. The division may also suspend or revoke the operator's license and impose fines for violations.

Section 38.

The bill repeals the rate notification and advertisement requirements and related enforcement penalties for public lodging establishments.

Effective date

Section 39.

Effective date – October 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The DBPR fiscal projections include the following:

“With regard to Section 5 of the bill, any waiver of the \$5.00 unlicensed activity fee will reduce revenues. If a full waiver of licensing fees and the unlicensed activity fee is implemented it will reduce renewal payments processed through contract with the Department of Revenue and by the Department. A waiver will only be approved if there is excess cash in a profession's operating and unlicensed activity accounts.”

“Sections 14-15, 17, and 18-21: For FY 2009-2010, the Department calculated 9,382 initial certificates of authority at \$59 each and 42,204 renewals at \$59 each, for a total reduction of \$ 3,043,574 in fees. For FY 2010-2011, the Department calculated 9,382 initial certificates of authority at \$59 each for total reductions of \$553,538. For FY 2011- 2012, the Department calculated 9,382 initial certificates of authority at \$59 each and 42,204 renewals at \$59 each, for a total reduction of \$ 3,043,574 in fees. Based upon current economic conditions, the department did not factor license growth into its calculations. NOTE: For the purpose of this [DBPR] bill analysis, we have shown the renewals being collected in FY 2009-2010 and 2011- 2012. In reality, since the renewal cycle spans two fiscal years (June of one year and July and August the following year), the renewals are collected 40 percent in June and 60 percent in July and August.”

“Elimination of the requirement for new and renewing certified public accounting licensees to take the laws and rules examination will eliminate the need for the contract saving \$107,907 per year.”

“Initial cost for barber written examination revisions will be \$15,000. There will be a recurring cost savings from the elimination of the practical exam of \$28,918 (expense \$15,849 and \$13,068 for exam testing). The \$75.00 fee charged for the practical examination will be eliminated and an increase of \$25 will be applied to the written exam, a net savings to the applicant of \$50. Revenue savings is based on \$50 multiplied by 1,749 applicants.”

2. Expenditures:

The DBPR projects a reduction in expenditures approaching \$600,000 for FY 2009-2010 based on the DBPR “Fiscal Analysis & Economic Impact Statement.”

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Not anticipated to be significant.

2. Expenditures:

Not anticipated to be significant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

As reflected above in the DBPR fiscal projections, a reduction in expenses would be recognized by those practitioners impacted by the provisions of the bill. The DBPR notes the following provisions:

“Eliminates the requirement for a business qualified under s 489.119 to have a certificate of authority which is renewed on a biennial basis resulting in reduced fees and expenditures. Lowers the transfer to the Department of Community Affairs due to a lower collection of the \$4 building code fee associated with contractor licenses. Allows for the waiver of the \$5.00 unlicensed activity fee which when implemented will reduce revenues. Eliminates the need for the contract for administration of the Certified Public Accountancy law and rules examination. Eliminates direct costs associated with the practical barber’s licensure examination and lowers the fee charged to candidates.”³

D. FISCAL COMMENTS:

See DBPR projections above.

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:

The Guidelines for Bill Drafting 2009 edition prepared by the House Bill Drafting Service specifies:

³ Id.

“The discussion under this part relates to the individual segments of a bill and offers suggestions as to how each of them may be prepared in order to conform to the legal requirements of the Florida Constitution and rules of the legislative process.”

Title of bill

Section 6 of Article III of the Florida Constitution provides in part that:

Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title [emphasis supplied].

The title, required by the Florida Constitution, is that portion of the bill which serves the purpose of expressing the subject of the bill. A properly prepared title is essential to the validity of the law to be enacted. The title should briefly express the subject of the proposed legislation so that the mere reading of it will indicate the nature of the details which are embodied in the act.

It is not necessary to set forth all the details and provisions of a bill in the title, and a general title is often preferable since it facilitates possible future amendment of the bill. However, the title must give notice sufficient to reasonably lead an interested person to inquire as to the contents of the bill.

What happens if a bill passes with an insufficient title?

An act is defective to the extent that its scope is broader than the subject of its title. See: Rouleau v. Avrach, 233 So.2d 1 (Fla. 1970). Such an act may be challenged in court, and the court may declare the act to be unconstitutional for failure to comply with Section 6 of Article III of the Florida Constitution.

HB 425 is titled “An act relating to regulation of professions.”

Chapter 455, F.S., specifies the general powers of the DBPR. Each profession is administered either directly by the DBPR or through a separately appointed board, council, or commission. Section 455.01, F.S., defines the term “profession” to mean:

“any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”

The bill contains numerous modifications relating to several programs under the DBPR. Included in the bill are provisions relating to regulatory programs that are not defined as “professions.”

The bill amends chapter 509, which relates to the inspection and regulation of public lodging establishments and public food service establishments by the DBPR.

The bill amends chapter 548, F.S., which relates to pugilistic matches in the state, which include boxing, kickboxing, and mixed martial arts, by the Florida State Boxing Commission. Section 548.003, F.S., specifies that the commission “is assigned to the Department of Business & Professional Regulation for administrative and fiscal accountability purposes only.”

A discussion regarding the breadth of a title of a bill is a continuing refrain in bill drafting services. A refrain which is often unresolved and left to the interpretation of the individual inquirer.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Electrical Contractors’ Licensing Board to adopt rules authorizing an applicant to demonstrate financial responsibility by providing a minimum credit score or bonds in lieu of providing other proof of financial responsibility, such as financial statements and bank account records.

The bill amends s. 455.281, F.S., to authorize the DBPR to adopt rules to waive an unlicensed activity fee for up to two years if a profession's operating account and unlicensed activity account have an excess cash balance.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The DBPR comments that:

"the department suggests an amendment to provide for a fee of no more than \$50 to cover the costs of processing initial qualification and renewal of business organizations. The fee will cover the costs to review business documents for those contractors who apply to act as qualifying agents for business organizations and will cover the costs of regulating those entities. As the fee will not be for a license, our licensees will save \$9.00 per fee (the costs of the \$5.00 unlicensed activity fee and a \$4.00 fee transferred by the department to the Department of Community Affairs to fund construction education programs). Contractors will also be relieved of the burden of renewing the certificate of authority every two years. The amendment will restore \$2,110,200 of the revenue that would be lost. The loss of revenue in that amount would have a significant impact on the financial condition of the Construction Industry Licensing Board's operating account."⁴

The DBPR further comments that:

"In Section 2 the bill amends s.455.217, F.S. removing general examination requirements for laws and rules examination. This is a general law which is not specific to certified public accounting and should not be eliminated. It does not prevent the requirement from being removed from individual practice acts. The department will request an amendment to restore the language."⁵

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁴ Id.

⁵ Id.