

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/CS/SB 1330

INTRODUCER: General Government Appropriations Committee, Regulated Industries Committee, and Senators Fasano and Altman

SUBJECT: Department of Business and Professional Regulation

DATE: April 20, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi/ Harrington	Imhof	RI	Fav/CS
2.	_____	Burgess	BI	Withdrawn
3.	Frederick	DeLoach	GA	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill amends numerous provisions relating to regulatory activities of the Department of Business and Professional Regulation (department). The bill includes the following provisions.

- Amends the department’s service of process procedures to require the department to call the licensee’s last telephone number of record and publish in a newspaper if service via mail is unsuccessful.
- Provides that ch. 455, F.S., applies only to the regulation of the Division of Professions.
- Creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida.
- Requires that upon a determination by the department that it erroneously issued a license, or upon the revocation of a license, the licensee must surrender his or her license to the department.
- Prohibits an examinee whose examination materials were confiscated based upon suspicion of theft or unlawful reproduction of examination materials from taking another examination until the criminal investigation is concluded.

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

The regulatory costs associated with Home Inspection and Mold Related Services will be addressed in the General Appropriations Act for the Fiscal Year 2010-2011. According to the department, the implementation of all other provisions of the bill can be absorbed within current resources.

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

The bill amends the following sections of the Florida Statutes: 20.165, 215.37, 322.142, 455.2122, 455.2123, 455.275, 455.017, 455.02, 455.213, 455.217, 455.2175, 455.227, 455.228, 468.8311, 468.8312, 468.8313, 468.8318, 468.8319, 468.832, 468.8324, 468.8412, 468.8413, 468.8414, 468.8418, 468.8419, 468.842, 468.8421, 468.8423, 474.203, 475.02, 475.175, 475.613, 477.019, 509.211, 554.108, and 561.17.

The bill creates sections 468.8325, 468.8424, and 548.076, Florida Statutes.

The bill repeals section 455.2226, Florida Statutes.

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

II. Present Situation:

Department of Business and Professional Regulation

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

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

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

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

Professional Boards

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

- Board of Architecture and Interior Design, created under part I of ch. 481, F.S.
- Florida Board of Auctioneers, created under part VI of ch. 468, F.S.
- Barbers' Board, created under ch. 476, F.S.
- Florida Building Code Administrators and Inspectors Board, created under part XII of ch. 468, F.S.
- Construction Industry Licensing Board, created under part I of ch. 489, F.S.
- Board of Cosmetology, created under ch. 477, F.S.
- Electrical Contractors' Licensing Board, created under part II of ch. 489, F.S.
- Board of Employee Leasing Companies, created under part XI of ch. 468, F.S.

¹ Chapter 93-220, L.O.F.

- Board of Landscape Architecture, created under part II of ch. 481, F.S.
- Board of Pilot Commissioners, created under ch. 310, F.S.
- Board of Professional Engineers, created under ch. 471, F.S.
- Board of Professional Geologists, created under ch. 492, F.S.
- Board of Veterinary Medicine, created under ch. 474, F.S.

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

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

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

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

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

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

Service of Process

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

Members of the Armed Forces

Section 455.02, F.S., provides that members of the Armed Forces of the United States on active duty, who are in good standing with their professional board, may maintain the good standing

²Section 548.003, F.S.

³Chapter 310, F.S.

⁴*Id.*

⁵Section 120.60(5), F.S.

⁶Section 455.275(1), F.S.

without paying dues or fees while on active duty and for a period of six months after discharge from active duty, provided the member is not engaged in his or her profession in the private sector for profit. Spouses of members of the armed forces may also be exempt from renewal provisions provided the spouse is absent from the state because of their spouses' duties with the Armed Forces.⁷

Theft or Reproduction of an Examination

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

Discipline

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

Home Inspectors

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

In order to be licensed as a home inspector, an applicant must take an examination, apply to the department, and pay a license fee.¹² An applicant must be of good moral character and must have completed a course of study of at least 120 hours which covers all of the following components of a home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.¹³ A corporation or partnership may be issued a certificate of authorization to offer home inspection services so long as all personnel of the corporation or partnership are licensed.¹⁴

⁷ Section 455.02(2), F.S.

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

⁹ Section 455.227(1)(c), F.S.

¹⁰ Chapter 2007-235, L.O.F.

¹¹ Section 468.8311(3), F.S.

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

¹³ Section 468.8313(2), F.S.

¹⁴ Sections 468.8318(1) and (2), F.S.

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

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

Mold-Related Services

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

An applicant for a mold assessor or mold remediator license must take an examination, apply to the department, and pay license fees.²⁰ The applicant is qualified if the applicant is of good moral character and has satisfied the education requirements. An applicant for a mold remediation license must either have a two-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science and a minimum of one year of documented field experience in a field related to mold remediation or a high school diploma and four years of documented field experience.²¹ An applicant for a mold assessor license must have a two-year degree in the same courses of study and one year of documented field experience in conducting microbial sampling or investigations or a high school diploma and four years of documented field experience.²² The department may also issue a certificate of authority for a partnership or corporation that offers mold assessment or mold remediation.²³

Section 468.842, F.S., prohibits an individual from performing mold assessment or remediation or holding themselves out to be a mold assessor or remediator without proper licensure and

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

¹⁶ See 2007-235, L.O.F.

¹⁷ Section 468.8414(1), F.S.

¹⁸ Section 468.8411(3), F.S.

¹⁹ Section 468.8411(5), F.S.

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

²¹ Section 468.8413(2)(a)1., F.S.

²² Section 468.8413(2)(b)1., F.S.

²³ Section 468.8418(1), F.S.

without complying with the mold-related service regulations. Although the legislation was passed in 2007, s. 468.842, F.S., does not take effect until July 1, 2010.²⁴ The delay in the effective date was intended to give the department time to implement rules and give members in the industry time to apply for and obtain proper licenses.

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

Cosmetology

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

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

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

Section 477.019, F.S., permits applicants for licensure as a cosmetologist to apply to take the license examination in the last 100 hours of their required 1,200 hours of course work. The applicant must take the examination within 6 months of the approval of the application to sit for the examination. According to the department, this provision, which was enacted in 2008,²⁵ was intended to streamline the application processes, but has had the opposite effect because the department must review the candidate’s information twice – once when they apply to sit for the examination and again to verify completion of 1,200 hours prior to issuing the license.

²⁴ *Supra* at n. 15.

²⁵ Chapter 2008-240, L.O.F.

Carbon Monoxide Detectors

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

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

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

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

Section 553.885(1), F.S., requires that every building that has a fossil-fuel-burning heater or appliance, a fireplace, or an attached garage for which a building permit is issued for new construction on or after July 1, 2008, must have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes. The Florida Building Commission is required to administer this provision and to incorporate these requirements into the Florida Building Code. If the building is a new hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, the approved, operational carbon monoxide detector must be installed inside or directly outside of each room or area within the hospital or facility where a fossil-fuel-burning heater, engine, or appliance is located. The detector must be connected to the fire alarm system of the hospital or facility as a supervisory signal.

²⁶ See National Fire Protection Association at:

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

²⁷ See 2007-181, L.O.F.

²⁸ *Id.*

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

Public Lodging Establishments

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

Boiler Safety

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

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

Boxing

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

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

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

³⁰ Rule 69A-51.010, F.A.C.

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

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

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

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

Alcoholic Beverages and Tobacco

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

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

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

³³ See s. 561.01(6), F.S.

³⁴ See s. 561.14, F.S.

III. Effect of Proposed Changes:

Department of Business and Professional Regulation

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

Section 2 amends s. 215.35, F.S., to correct an out-dated reference.

Section 3 amends s. 322.142, F. S., to allow the Department of Business and Professional Regulation to enter into an interagency agreement with the Department of Highway Safety and Motor Vehicles for access to photographic records for inclusion on department licenses.

Section 4 amends s. 455.017, F. S., to correct an out-dated reference.

Section 5 amends s. 455.02, F. S., to create a temporary professional license classification for spouses of active duty members of the U.S. Armed Forces who have been assigned to a duty station in Florida.

Sections 6 through 7 create s. 455.2122, F.S., and amend section 455.2123, F.S., to allow licensees to take distance learning courses as part of the required pre-licensure or post-licensure educational requirements.

Section 8 amends s. 455.213, F. S., to require a licensee to surrender a license to the department if it was issued in error.

Section 9 amends s. 455.217, F. S., to allow examination review of applicants who fail an examination.

Section 10 amends s. 455.2175, F. S., to prohibit an examinee whose examination materials were confiscated based upon suspicion of theft or unlawful reproduction of examination materials from taking another examination until the criminal investigation determines if a violation occurred.

Section 11 repeals s. 455.2226, F. S., related to the regulation of funeral directors and embalmers. Funeral directors and embalmers are now regulated under chapter 497, F.S., and the functions have been transferred from the Department of Business and Professional Regulation to the Department of Financial Services.

Section 12 amends s. 455.227, F. S., to authorize disciplinary action against a licensee who enters a plea of guilty regardless of adjudication.

Section 13 amends s. 455.228, F. S., to make a technical reference correction.

Section 14 amends s. 455.275, F.S., to provide methods for contacting a licensee when an administrative complaint is being served.

Sections 15 through 23 amends part XV of ch. 468, F. S., and provides additional statutory requirements to operated as a home inspector.

Sections 24-33 amends part XVI of ch. 468, F. S., and provides additional statutory requirements to operate as a mold assessor or mold remediator.

Section 34 amends s 474.203, F. S., to expand the exemption to allow veterinary interns or residents who are graduates in training to be a graduate of a school recognized by the Educational Commission for Foreign Veterinary Graduates.

Section 35 amends s. 475.02, F. S., to allow a member of the Florida Real Estate Commission to teach courses approved by the commission.

Section 36 amends s. 475.175, F.S., to change the verbiage of fingerprint cards to digital fingerprints for real estate license applicants.

Section 37 amends s. 475.613, F. S., to remove the statutory requirement that two members of the Florida Real Estate Appraisal Board represent the general public and not be connected with the practice of real estate brokerage or mortgage lending and allows a member of the board to teach courses approved by the board.

Section 38 amends s. 477.019, F. S., to eliminate a provision that allows cosmetology applicants to apply to take their exam within the last 100 hours of their required 1,200 hours of course work. This section also eliminates the requirement that the examination must be taken within six months after approval.

Section 39 amends s. 509.211, F.S., to transfer carbon monoxide regulation in public lodging establishments from the Division of Hotels and Restaurants to the State Fire Marshal.

Section 40 amends s. 548.076, F. S., to authorize the Florida State Boxing Commission to issue a notice to cease and desist for violations.

Section 41 amends s. 561.17, F.S., to eliminate the need for applicants for alcoholic beverage licensees to submit paper applications in duplicate.

Sections 42 through 53 reenacts various provisions to reflect updated cross references as a result of changes made in the bill.

Section 54 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

The regulatory costs associated with Home Inspection and Mold Related Services will be addressed in the General Appropriations Act for the Fiscal Year 2010-2011. According to the department, the implementation of all other provisions of the bill can be absorbed within current resources.

VI. Technical Deficiencies:

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

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by General Government Appropriations on April 19, 2010:

This committee substitute:

- Corrects a number of out dated references

- Allows the department to enter into an interagency agreement with the Department of Highway Safety and Motor Vehicles for access to photographic records for inclusion on department licenses.
- Allows licensees to take distance learning courses as part of the required pre-licensure or post-licensure educational requirements.
- Allows members of the Florida Real Estate Commission to teach courses approved by the commission.

CS by Regulated Industries on March 17, 2010:

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

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

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

B. Amendments:

None.