

PROFESSIONS

CS/HB 63 — Auctioneers

by General Government Policy Council and Rep. Boyd and others (CS/SB 482 by Regulated Industries Committee and Senator Baker)

This bill requires applicants for licensure as auctioneers or auctioneer apprentices to file a complete set of fingerprints for submission to the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI). It requires that the fingerprints be in an electronic format. It provides that the FDLE will conduct the state criminal records check and the FBI will conduct a national criminal records check. The Florida Board of Auctioneers (board) within the Department of Business and Professional Regulation (department) is required to review results of the state and national criminal records to determine whether the applicant has committed acts or offenses that disqualify him or her from licensure.

The vendors and agencies that are authorized by rule of the department to perform the fingerprinting must collect the fingerprinting fee and pay the FDLE for the cost of processing. According to the department and the FDLE, the cost for electronic fingerprint submissions for state and national criminal history background checks is \$43.25.

The bill requires that both the application for licensure as an auctioneer apprentice and the license itself must be signed by the licensed auctioneer who will serve as the sponsor of the apprentice. The bill requires that the auctioneer apprentice's sponsor regularly review the records of the apprentice, which the board requires the sponsor to maintain, in order to determine if the apprentice's records are accurate and current.

The bill requires auction businesses to be licensed and specifies license application requirements for an auction business, including the disclosure of the business' legal name and fictitious names, a complete set of fingerprints of each natural person who controls 20 percent or more in the business, and evidence of financial responsibility. The bill also makes auction businesses subject to the disciplinary provisions currently applicable to auctioneers and auctioneer apprentices. It provides a five-year disqualification from either licensure as an auctioneer or apprentice or holding an ownership interest in an auction business, for any person whose license has been revoked.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-2; House 117-0

CS/CS/SB 1640 — Public Accountancy

by General Government Appropriations Committee; Regulated Industries Committee; and Senator Jones

The bill provides for practice mobility for certified public accountants (CPAs). Practice mobility permits a CPA in another state who is not licensed in Florida, but is licensed in another state, to perform limited accounting services in Florida without obtaining a Florida license, notifying or registering with the board, or paying a fee. According to the Florida Institute of Certified Public Accountants, 38 states have adopted practice mobility statutes. The types of accountancy services that may be provided under practice mobility include tax advisory services or consulting services in Florida from out-of-state. However, a CPA without a Florida license could not provide the types of services that require the expression of an opinion or an attestation by the CPA.

The bill exempts certified public accountants from the requirement of a laws and rules examination as a condition of license renewal. The bill requires CPAs to have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college or university. The 150 semester hours of college education required by the bill equal the same number of total educational hours that are required under current law. The bill provides an exception to the work experience requirement for any person who has completed the required 150 semester hours of college education on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

The bill permits CPAs whose license is inactive or delinquent to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods during which the licensee was inactive or delinquent. The continuing education required for reactivation is that required for the most recent two-year license period plus one-half of the required continuing education, which is a minimum of 48 hours. A minimum of eight hours of continuing education must be in ethics subjects approved by the board. This bill provides a six-month amnesty for an inactive licensee that limits the required continuing education to 120 hours.

The bill provides that seven members of the Board of Accountancy (board) must be certified public accountants licensed in Florida and have practiced full-time in Florida for at least five years. The bill would permit past board members to serve a term of two years, and provides that they may be reappointed for additional terms. Current law limits past board members to serving a maximum of two years.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 117-0

TIMESHARES

CS/HB 61 — Temporary Accommodations

by Economic Development Policy Committee and Rep. Precourt and others (CS/SB 392 by Finance and Tax Committee and Senator Haridopolos)

The bill clarifies the laws governing state and local taxes due from timeshare transactions and from transient stays at timeshare resorts. The bill provides that the tourist development tax, the tourist impact tax, the transient rentals tax, and the convention development tax are applicable to transient stays at timeshare resorts.

The bill specifies the types of transactions that are not subject to the tourist development tax, the tourist impact tax, the transient rentals tax, and the convention development tax. The exempted transactions include timeshare exchanges, fees charged by a third party to facilitate a timeshare exchange and inspection packages. Inspection packages are a timeshare marketing practice in which the seller or operator of a timeshare offers a one-time inspection privilege package to prospective timeshare buyers.

The bill includes mobile home parks, recreational vehicle parks, and condominiums as the types of facilities that may be subject to a transient rental tax. These types of facilities are currently specifically listed as the types of facilities that are subject to the local option tourist development tax, the tourist impact tax, and the convention development tax.

The bill permits timeshare companies to offer debt cancellation products with regard to the sale of timeshare interests. It requires that every public offering of a timeshare plan that is not a multisite timeshare plan must provide a statement that a timeshare owner's obligation to pay assessments continues for the duration of ownership and a person inheriting an interest is responsible for its payment. The bill also requires a timeshare interest resale service provider to provide a description of any fees and costs that must be paid, their due date and the ratio of timeshare interests listed versus sold by the provider for a two year period.

The bill provides an effective date of July 1, 2009. The bill further provides that it is intended to be clarifying and remedial in nature, and does not provide a basis for assessments of tax, or refunds of tax, for periods prior to July 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 112-0

CONSTRUCTION

SB 2064 — Construction Defects

by Senator Altman

The bill provides uniform use of terms, defines new terms, and provides clarification for when the provisions of ch. 558, F.S., apply to construction defect cases.

The bill defines “completion of a building or improvement” and amends the definition of “service.” The bill revises procedures for notice and opportunity to repair certain defects. The bill specifies that there are no construction lien rights for destructive testing under certain circumstances. The bill provides that the exchange of discoverable information between the claimant and person served with notice must occur within 30 days. The bill provides that the parties may agree in writing to mediation in the contract or at any time thereafter. The bill further provides that unless the parties agree, after October 1, 2009, all written contracts must contain a notice that any claims for defects are subject to the notice and cure provisions of ch. 558, F.S.

If approved by the Governor, these provisions take effect October 1, 2009.

Vote: Senate 38-0; House 118-0

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CS/CS/CS/CS/HB 425 — Department of Business and Professional Regulation

by Full Appropriations Council on General Government and Healthcare; Government Operations Appropriations Committee; General Government Policy Council; Insurance, Business, and Financial Affairs Policy Committee; and Rep. Plakon and others (CS/CS/SB 2262 by Community Affairs Committee; Regulated Industries Committee; and Senator Gaetz)

The bill revises provisions related to jurisdiction of the Department of Business and Professional Regulation (DBPR), including provisions related to application requirements, disciplinary guidelines, criminal proceedings, talent agencies, building code, public accountancy, real estate, barbers, cosmetology, construction, electrical contracting, Florida State Boxing Commission, hotels and restaurants, service operations, engineering, and the hospitality education program.

General Licensing [s. 455.213(1), F.S.]

The bill removes the general requirement that an application for licensure include a notarized signature of the applicant for all license types.

Discipline [s. 455.227, F.S.]

The bill adds two additional grounds for disciplining a licensee. A licensee may be disciplined for failing to report the plea to a crime or conviction of a crime to the board or department within

30 days after conviction or entry of a plea to a crime in any jurisdiction and for being terminated from a treatment program for impaired practitioners for failure to comply, without good cause, with the terms for monitoring rehabilitation progress or success.

Criminal Proceedings [s. 455.2274, F.S.]

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.

Talent Agencies [ch. 468, F.S.]

The bill amends several requirements for talent agencies relating to records management. The bill requires the talent agency to give each applicant a copy of a contract within 24 hours after the contract's execution. The bill requires the talent agency to notify an artist in writing that the artist has three business days to rescind the contract for employment. The bill prohibits a talent agency from dividing fees without written consent of the artist. The bill also increases the penalty for violations of the practice act from \$1,000 to \$5,000.

Building Code Training [ch. 468, 471, 481, and 489, F.S.]

Current law requires engineers, architects, interior designers, and contractors to successfully complete the building code core curriculum prior to licensure. The bill removes the core curriculum licensure examination requirement.

Public Accounting Examination [s. 473.311, F.S.]

The bill removes the reference to the laws and rules examination for CPAs. As a result, CPAs will no longer be required to take the laws and rules examination prior to licensure.

Real Estate Brokers and Sales Associates [ch. 475, F.S.]

Current law provides that continuing education requirements do not apply to an attorney who is otherwise qualified to conduct real estate related activities. The bill specifies that to be exempt from continuing education requirements, the attorney must be a member in good standing with the Florida Bar.

Barbers' Board [s. 476.134, F.S.]

The bill removes the requirement for a practical examination and requires that the barbers' examination include a written test only.

Cosmetology [s. 477.0265, F.S.]

The bill increases the fee cap for a cosmetologist license from \$25 to \$50.

Architecture and Interior Design [s. 481.229, F.S.]

The bill specifies that an exemption from licensure exists for a manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment if it is not used for construction, does not affect lifesafety systems, and provides that the designs are not architectural, interior, or engineering designs.

Construction [ch. 489, F.S.]

The bill increases the fee cap for a construction contractor license from \$200 to \$250.

The bill clarifies the difference between a state specialty contractor license issued by DBPR and a local specialty license issued by a local government and removes the requirement that applicants for registered construction contractor licenses provide a copy of a local occupational license.

The bill reorganizes and expands the parameters of the existing disclosure document for property owners acting as their own contractor and requires a homeowner to sign the disclosure statement prior to obtaining a permit.

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. Instead, an applicant for a contractor's license will apply to DBPR to act as the qualifying agent of the business organization as part of the licensure requirement for a registered or certified license.

Construction and Electrical Contracting [ch. 489, F.S.]

Under current law, an unlicensed construction or electrical contractor cannot enforce their contract. The bill specifies that an individual is considered unlicensed if they do not have a required state license. The bill specifies that this provision is retroactive and applies to contracts entered into on or after October 1, 2000.

Division of Hotels and Restaurants [ch. 509, F.S.]

The bill makes the three-year pilot program that allows patrons' dogs within designated outdoor areas of food service establishments permanent.

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

Hospitality Education Program [s. 509.302, F.S.]

The bill makes the goal of the Hospitality Education Program (HEP) to provide training courses to transition hospitality education students from school to careers in the restaurant or lodging

industries. This change eliminates all licensee and licensee's employee compliance training programs currently provided by the program. The bill requires that at least 68 percent of the HEP funds collected must be used for careers in the restaurant industry, and at least 14 percent must be used for careers in the lodging industry.

Florida State Boxing Commission [ch. 548, F.S.]

The bill creates a definition for the term "event" to mean "one or more matches comprising a show."

The bill specifies that the Florida State Boxing Commission must approve the sanctioning organization for amateur mixed martial arts events.

Division of Service Operations [ss. 20.165 and 455.217, F.S.]

The bill creates the Division of Service Operations within DBPR. The bill amends s. 455.217(1), F.S., to transfer from the Division of Technology to the newly created Division of Service Operations the department's responsibilities related to professional examinations. The bill clarifies that the department shall use qualified testing vendors to develop, prepare, and evaluate exams.

Engineering [s. 471.003, F.S.]

The bill increases the value of an electrical, plumbing, or air-conditioning and refrigeration system from \$50,000 to \$125,000 under the licensed engineer exemptions.

Office of Program Policy Analysis and Government Accountability

The bill provides that OPPAGA shall perform a study and make recommendations to the Legislature by December 1, 2009, regarding the enactment of laws to provide for protection and remedies from existing and unregulated online poker activities.

If approved by the Governor, these provisions take effect on October 1, 2009.

Vote: Senate 37-0; House 116-0

GAMING

CS/CS/SB 788 — Gaming

by Policy and Steering Committee on Ways and Means; Regulated Industries Committee; and Senators Jones and King

The bill includes the following provisions relating to an Indian gaming compact between the State and the Seminole Indian Tribe of Florida (Tribe):

- Grants the Governor the authority to execute an Indian gaming compact on behalf of the State with the Tribe for the purpose of authorizing Class III gaming on the Tribe's lands;
- Provides the form of the compact and specifies the minimum terms and standards required for a valid compact;
- Requires that the negotiated compact be ratified by the Legislature;
- Requires ratification of amendments to the compact if they alter the provisions related to covered games, the amount of revenue sharing payments, suspension or reduction of payments, or exclusivity;
- Provides that revenue sharing payments from the Tribe must be deposited into the Educational Enhancement Trust Fund;
- Authorizes the Governor to negotiate agreements with the Indian Tribes for all taxes, including sales taxes;
- Provides legislative intent to review the compact within 5 years in order to consider the authorization of additional Class III games; and
- Designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to monitor the Tribe's compliance with the compact.

The bill provides that an Indian gaming compact between the State and Tribe must:

- Have a 15-year term;
- Permit the Tribe to offer no-limit poker and slot machines at seven specified tribal casinos;
- Permit the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, only at tribal casinos in Broward County and Hillsborough County;
- Require a guaranteed minimum payment of \$150 million;
- Require the Tribe to make revenue sharing payments to the state based on the following annual amounts:
 - 12 percent of net win up to \$2.5 billion,
 - 15 percent of net win between \$2.5 billion and \$3 billion;
 - 20 percent of net win between \$3 billion and \$4 billion;
 - 22.5 percent of net win between \$4 billion and 4.5 billion; and
 - 25 percent of any net win above \$4.5 billion.

- Require the Tribe to waive sovereign immunity for tort claims by patrons in the amount of \$500,000 per person and \$1 million per incident;
- Require the Tribe to maintain insurance of \$1 million per occurrence and \$10 million in the aggregate;
- Permit the state to inspect public and non-public areas of the Tribe's gaming facilities with at least concurrent notice and with no limitations on the number of random inspections;
- Require annual slot machine compliance audits;
- Prohibit persons under 21 years of age from entering the casino floor and from playing the covered games;
- Require a \$250,000 per facility annual donation to a compulsive gambling program;
- Require that the Tribe provide a process for employee disputes that permits the tribal employee to be represented by an attorney or other legally-authorized representative, including language interpreters;
- Provide a process for resolving compact disputes between the State and the Tribe through specified presuit nonbinding arbitration; and
- Require the Tribe to use its best efforts to spend its revenue in this state to acquire goods and services from Florida-based vendors, professionals, and material and service providers.

The bill includes the following provisions related to pari-mutuel wagering:

- Provides a gradual increase in the number of performances that comprise a full schedule of live racing for quarter horses;
- Streamlines regulatory procedures for the pari-mutuel industry by:
 - Changing the term "year" to fiscal year instead of calendar year;
 - Requiring monthly payment of taxes instead of weekly beginning on July 1, 2012;
 - Providing a consistent definition of the term "conviction";
 - Providing flexibility for occupational license renewal and fees;
 - Providing enhanced fingerprint regulations; and
 - Expanding the current cruelty to animal prohibitions.
- Provides for greater flexibility of breeders' and stallion awards;
- Allows quarter horse permit holders to run thoroughbred races up to 50 percent of the time;
- Authorizes a quarter horse permit to convert to a limited thoroughbred permit;
- Restricts quarter horse permit holders to a 35-mile lease restriction;
- Authorizes a jai alai permit to convert to a greyhound permit if certain requirements are satisfied;

- Provides for a reduction of the tax rate on slot machine revenue from 50 percent to 35 percent with a guarantee of tax revenue to be that which was collected in 2008-2009;
- Provides for a gradual reduction of the slot machine annual license fee from \$3 million to \$2 million;
- Allows for slot machines to be linked using a progressive system;
- Provides that the payout percentage of a slot machine facility shall be no less than 85 percent;
- Authorizes Class III slot machines in a county that has had a referendum approving slots or has a referendum approving slots that was approved by law or the Constitution provided that such facility has conducted 2 years of racing and complies with other requirements for slot licensure;
- Provides that an initial cardroom license shall not be issued unless the permitholder has a facility and has begun racing;
- Allows for the conduct of no-limit poker in cardrooms; and
- Extends the hours of cardroom operation from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day on Saturday and Sunday.

The bill provides a contingent effective date.

- The Indian gaming compact provisions take effect upon becoming law.
- The pari-mutuel wagering provisions take effect only if:
 - The Governor and an authorized representative of the Tribe execute an Indian Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988 and requirements of this act,
 - The compact is ratified by the Legislature, and
 - The compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior.

Such sections take effect on the date that the approved compact is published in the Federal Register.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 31-9; House 82-35