

Regulatory Reform & Economic Development Subcommittee

Wednesday, January 4, 2023
1:00 PM - 2:00 PM
Webster Hall (212 Knott)

Meeting Packet

Paul Renner
Speaker

Tyler Sirois
Chair

The Florida House of Representatives

Commerce Committee

Regulatory Reform & Economic Development Subcommittee

Paul Renner
Speaker

Tyler Sirois
Chair

Meeting Agenda

Wednesday, January 4, 2023
1:00 PM – 2:00 PM
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Introduction to Members

V. Subcommittee Overview

VI. Closing Remarks

VII. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

REGULATORY REFORM & ECONOMIC DEVELOPMENT SUBCOMMITTEE

COMMERCE COMMITTEE

RRS STAFF: 303 HOUSE OFFICE BUILDING - (850) 717-4871

Laura Anstead – Policy Chief
Laura.anstead@myfloridahouse.gov

Jason Thompson – Analyst
Jason.thompson@myfloridahouse.gov

Kelly Wright – Staff Attorney
Kelly.Wright@myfloridahouse.gov

Natalie Frandsen – Staff Attorney
Natalie.frandsen@myfloridahouse.gov

SUBCOMMITTEE JURISDICTION

The Regulatory Reform & Economic Development Subcommittee (RRS) oversees the state's regulation and licensing of businesses and professionals, consumer regulatory programs, and the regulation of alcoholic beverages, tobacco, and gaming. It's oversight also includes the implementation of economic development and tourism programs.

FLORIDA'S APPROACH TO REGULATION

- ✓ Protect the public from significant and measurable harm.
- ✓ Avoid unnecessary restrictions to business entry.
- ✓ Must be cost effective.

Related to the regulation of professions and occupations, the Legislature intends that:

- No profession or occupation be subject to regulation by the state **unless the regulation is necessary to protect the public health, safety, or welfare** from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and
- No profession or occupation be regulated by the state in a manner that **unnecessarily restricts entry into the practice of** the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

In determining whether to regulate a profession or occupation, s. 11.62, F.S., requires consideration of the following:

- Whether the unregulated practice of the profession or occupation will **substantially harm or endanger the public health, safety, or welfare**, and whether the potential for harm is recognizable and not remote;

- Whether the practice of the profession or occupation requires **specialized skill or training**, and whether that skill or training is **readily measurable or quantifiable** so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place **unreasonable restrictions** on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively **protected by other means**; and
- Whether the overall **cost-effectiveness and economic impact** of the proposed regulation, including the **indirect costs to consumers**, will be favorable.

PROFESSIONAL REGULATION

The Florida Department of Agriculture and Consumer Services (DACS) supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food. It includes regulation of Charitable Organizations, Game Promotions, Health Studios, Motor Vehicle Repair Shops, Intrastate Movers, Pawnshops, Sellers of Travel, Pawn Shops, Pest Control Operators, the Do-Not-Call List, Surveyors and Mappers, and Telemarketing. In addition, the Division of Licensing oversees the licensure and regulation of concealed firearms and the private security, investigative, and recovery services industries.

The **Division of Consumer Services** is comprised of seven bureaus: Bureau of Compliance, Bureau of Fair Rides Inspection, Bureau of Liquefied Petroleum (LP) Gas Inspection, Bureau of Mediation and Enforcement, Bureau of Standards, Communications and Outreach Section, and Board of Professional Surveyors and Mappers.

- **Bureau of Compliance** has regulatory responsibility for the following business entities: motor vehicle repair shops, charitable organizations, pawnbrokers, health studios, sellers of travel, intrastate movers, sweepstakes/game promotions, and telemarketing. This bureau also administers the Florida Do Not Call Program.
- **Bureau of Fair Rides Inspection** is assigned to carry out the inspection and investigation mandates of s. 616.242, F.S., and enforcement of adopted rules, regulations, and codes. The bureau has statewide responsibility to inspect all amusement rides in the state, except for certain large parks which have more than 1,000 employees and have full time inspectors on staff. All amusement rides are required to be permitted annually by the department, are required to undergo nondestructive testing for structural integrity, and must have an annual inspection by a professional engineer or qualified inspector.
- **Bureau of Liquefied Petroleum (LP) Gas Inspection** assigns inspectors to various regions of the state, and coordinates all inspectors' activities through the Tallahassee headquarters office. Tallahassee staff is divided into three work units - administration, training, examinations, licensing, and inspections/investigations.
- **Bureau of Mediation and Enforcement** is responsible for mediating complaints filed by consumers regarding goods and services provided by businesses. Complaints that fall under the jurisdiction of another federal, state, or local governmental agency are referred to that office for processing. This bureau also processes administrative enforcement actions for violations by an entity that falls within one of the division's regulatory programs.
- **Bureau of Standards/Weights and Measures** is responsible for conducting inspections of the petroleum distribution system and analyzes samples of petroleum products to ensure consumers

are being offered quality products at a fair measure. It is also responsible for conducting inspections at retail facilities and inspects commercial measuring devices each year. Inspectors also routinely test the accuracy of retail price scanners, labels and net contents of pack food items, packaged goods such as dry goods, household items, building and construction materials, gardening products and hundreds of other products purchased daily by consumers and business.

The Department of Business and Professional Regulation (DBPR) oversees the licensing and regulation of a variety of non-healthcare related businesses and professionals in Florida. Its stated mission is to license efficiently and regulate fairly.

DBPR is responsible for licensing and regulating five major industries: Alcoholic Beverages and Tobacco; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants, including elevator safety. DBPR is also responsible for licensing and regulating individual professional licensees, primarily through regulatory boards administratively housed within the department. Such professional licensees include real estate appraisers, brokers and sales associates, certified public accountants, boxers, community association managers, construction and electrical contractors, child and farm labor contractors, cosmetologists, geologists, and veterinarians. It also administratively houses the Florida State Boxing Commission and the Florida Building Commission.

The **Division of Alcoholic Beverages and Tobacco** licenses individuals and businesses that produce, transport, distribute, or otherwise deal in alcoholic beverages or tobacco.

The **Division of Drugs, Devices and Cosmetics** is responsible for the licensure and regulation of manufacturers of drugs, drug ingredients, and cosmetics, and enforces the Florida Drug and Cosmetic Act with an aim to safeguard the health, safety, and welfare of the public from injury due to the use of adulterated, contaminated, misbranded drugs, drug ingredients and cosmetics.

The **Division of Florida Condominiums, Timeshares, and Mobile Homes** provides consumer support for Florida residents of such communities through education, complaint resolution, mediation and arbitration and developer disclosure. This division also licenses and regulates yacht and ship brokers.

The **Division of Hotels and Restaurants** licenses, inspects and regulates public lodging and food service establishments in Florida. The mission of the division is to protect the health and safety of the public by providing the industry with quality inspections and fair regulation. The division also licenses and regulates elevators, escalators and similar devices.

The **Division of Professions** is responsible for the licensing of nearly half a million professionals. The division administers 13 professional boards, 5 department-regulated programs, and the Regulatory Council of Community Association Managers.

Boards

- Board of Architecture and Interior Design
- Board of Auctioneers
- Barbers' Board
- Building Code Administrators and Inspectors Board
- Construction Industry Licensing Board
- Board of Cosmetology

- Electrical Contractors' Board
- Board of Employee Leasing Companies
- Board of Professional Engineers
- Board of Professional Geologists
- Board of Landscape Architects
- Board of Pilot Commissioners
- Board of Veterinary Medicine

Programs

- Asbestos Licensing Unit
- Athlete Agents
- Child Labor
- Farm Labor
- Home Inspectors
- Mold-related Services
- Talent Agencies

The **Division of Regulation** is the enforcement authority for the professional boards and programs. It monitors the professionals and related businesses; investigates complaints of wrongdoing; enforces compliance through notices of noncompliance and citations; and performs statutorily mandated inspections. The division is divided into six program areas and operates 8 regional offices and 2 satellite offices. The six program areas are: compliance; complaints/investigations; alternative dispute resolution; unlicensed activity; farm labor; and child labor.

The **Division of Certified Public Accounting** is responsible for the regulation of certified public accountants (CPAs) and accounting firms. The division processes applications to sit for the CPA licensure examination, original Florida licensure applications, licensure by endorsement applications, reactivation of a delinquent or inactive CPA license, temporary permit applications, accountancy firm licensure, and continuing education reporting forms. The division also provides administrative support to the Board of Accountancy. The division is located in Gainesville, FL, as required by statute.

The **Division of Real Estate** is responsible for the examination, licensing and regulation of over a quarter of a million real estate professionals, corporations, real estate schools and instructors. Located in Orlando, FL, as required by statute, the division administers the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.

The **Florida State Boxing Commission** oversees the licensing and regulation of professional boxing, kickboxing and mixed martial arts. The Commission is also responsible for the approval of amateur boxing, kickboxing and mixed martial arts sanctioning organizations. It is housed in DBPR for administrative and fiscal accountability purposes.

The **Florida Building Commission** is responsible for adopting, updating and administering the Florida Building Code, the unified statewide code governing all construction. It adopts administrative rules and issues binding code interpretations every 3 years. The Commission is housed in DBPR for administrative purposes.

ECONOMIC DEVELOPMENT

Florida's economic development system is multi-faceted and includes public agencies, non-profit corporations, and private entities at the state, regional, and local level. The Legislature created some of these organizations, while others are units of local government or privately formed associations or alliances. Many of the organizations have similar missions (e.g., encouraging economic development and enhancing the state's business climate) and serve the same constituencies (e.g., in- and out-of state businesses and the state's economic and workforce development communities). The most prominent of these organizations are Enterprise Florida, Inc. (EFI) and the Department of Economic Opportunity (DEO).

To achieve their economic development missions, EFI and DEO perform numerous activities and collaborate via contracts. DEO serves as the contract manager for agreements with EFI, the Institute for the Commercialization of Public Research, the Florida Defense Support Task Force, the Florida Sports Foundation, Space Florida, and the Florida Tourism Industry Marketing Corporation (VISIT Florida).

Prior to the creation of EFI, the Department of Commerce and Department of Labor and Employment Security were responsible for the state's economic development activities. In 1996, the Legislature created EFI as a public-private partnership to serve as the state's principal economic development marketing and promotion organization.

To support the ongoing evolution of the state's economic development system, the 2011 Legislature created the Department of Economic Opportunity, transferring functions from the Agency for Workforce Innovation (AWI), Department of Community Affairs (DCA), and Governor's Office of Tourism, Trade, and Economic Development (OTTED) to the new agency.

The Department of Economic Opportunity (DEO) assists the Governor in advancing Florida's economy by championing the state's economic development vision and by administering state and federal programs and initiatives to help visitors, citizens, businesses, and communities. DEO combines economic development initiatives, workforce support and training, and community development efforts to fuel job creation around the state. The state and federal programs administered by DEO help support local businesses, engage talented job seekers and enhance our state's diverse communities.

Local Tourism and Economic Development

To the extent authorized by state law, local governments have the authority to promote economic and tourism development within their jurisdictions. In order to promote tourism development in the state, the Legislature has authorized counties to levy a number of tourist development taxes, the proceeds of which may generally be used for economic development within the county.

THE FLORIDA GAMING CONTROL COMMISSION

The Florida Gaming Control Commission is a five-member regulatory body that is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts, and other forms of gambling authorized by the State Constitution or law, excluding the state lottery.

RRS Major Legislation Passed in the 2021 - 2022 Sessions

CS/HB 5D Condominium and Cooperative Associations
Related to condominiums and cooperatives, the bill:

- Creates a statewide building milestone inspection requirement for condominiums and cooperative buildings three stories or higher 30 years after initial occupancy, or 25 years if within three miles of the coast.
- Requires additional inspections every 10 years after a building's initial milestone inspection.
- Provides local building officials with ability to assess penalties for failing to comply with the inspection requirements.
- Requires condominiums and cooperatives to conduct structural integrity reserve studies every 10 years for buildings that are three stories or higher.
- Prohibits waiver of funding for certain structural reserves.
- Requires developers to complete structural integrity reserve studies for every building that is three stories or higher, and repeals the ability of developers to waive the collection of all types of reserve funds.
- Provides that structural integrity reserve studies, and inspection reports are a part of an association's official records and must be provided to a potential purchaser of a unit.

CS/HB 329 - Beverage Law
The bill authorizes certain restaurants licensed under the Beverage Law to sell or deliver alcoholic beverages prepared by the licensee and packaged in a sealed container for off-premises consumption if the sale or delivery is accompanied by the sale of food within the same order. Additionally, the bill specifies that in order for certain quota licensees to prepare and sell drinks for off premises consumption, the licensee must be licensed as a public food service establishment, the sale of food and nonalcoholic beverages must account for at least 40 percent of the total charge, and such sales may not occur after the licensee stops preparing food or after midnight, whichever is earlier. Such sales must be made in accordance with current laws relating to open containers and deliveries, and must be packaged in a specified manner to prevent immediate consumption of the beverage.

CS/HB 403 - Home-based Businesses
The bill provides that local governments may not enact or enforce any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business in a manner that is different from other businesses in a local government's jurisdiction. In order to be considered a home-based business, the bill requires that:

- the business operates, in whole or in part, from a residential property,
- the employees of the business must reside in the residence, except for up to two employees or independent contractors who work at the residence and any number of remote employees,
- parking related to business complies with local zoning requirements and may not be greater than would be expected at a residence where no business is conducted,
- the use and external modifications of the residential property are consistent with the uses, residential character, and architectural aesthetics of the neighborhood,
- the business complies with local regulations for signage, noise, vibration, heat, smoke, dust, glare, fumes, noxious odors, hazardous or flammable materials, vehicles, and trailers, provided that such regulations are not more stringent than those for a residence where no business is conducted,
- the business complies with local regulations for the parking and storage of heavy equipment,

• the home-based business may not conduct retail transactions at a structure other than the residential dwelling, except that incidental and short term business uses and activities may be conducted at the residential property, and
• the activities of the home-based business are secondary to the use as a residential dwelling.

HB 735 - Preemption of Local Occupational Licensing
The bill expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations. However, any licensing of occupations adopted prior to July 1, 2021, will continue to be effective until July 1, 2023, at which time they will expire. Any local licensing of occupations authorized by general law is exempt from the preemption. The bill prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor licensed by the Construction Industry Licensing Board, and precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation. The bill also expressly authorizes counties and municipalities to continue to issue journeyman licenses in the plumbing, pipe fitting, mechanical, HVAC, electrical, and alarm system trades.

CS/CS/CS/HB 577 - Lodging Standards
The bill prohibits an operator of a public lodging establishment from offering an hourly rate for an accommodation, with an exception for late fees.

The bill is entitled "Miya's Law" and requires a landlord of an apartment to require that each employee of the establishment undergo a background screening as a condition of employment, which must include a search of nationwide criminal records and sexual offender registries. A landlord may disqualify a person from employment if the person has committed:
- Certain criminal offenses involving disregard for the safety of others
- Certain violent criminal offenses, such as sexual battery, robbery, carjacking, and stalking

Related to regulation of apartments by DBPR, the bill requires each apartment to:
- require that each employee of the licensee undergo the required background screening,
- maintain a log accounting for the issuance and return of all keys for each dwelling unit,
- establish policies and procedures for the issuance and return of dwelling unit keys, and
- upon request during DBPR's annual inspection, provide proof of compliance with such requirements.

HB 267 - Swimming Pool Specialty Contracting Services
The bill creates a new exemption to licensure requirements by allowing unlicensed persons to perform the work of specialty contractors for the construction, remodeling, repair, or improvement of commercial or residential swimming pools, interactive water features, hot tubs, and spas without obtaining a specialty contractor license or local license. The bill only allows the unlicensed person to perform the work if the unlicensed person is under the supervision of a licensed commercial or residential pool/spa contractor or swimming pool/spa servicing contractor, the work is within the scope of the supervising contractor's license, the supervising contractor is responsible for the work, and the work does not require licensure as a roofing, sheet metal, air-conditioning, mechanical, plumbing, solar, underground utility and excavation contractor, or electrical contractor.

HB 33 - Electronic Dissemination of Commercial Recordings and Audiovisual Works
The bill amends the definition of "electronic dissemination" to include commercial recordings or audiovisual works offered for display or performance, which will require a person who owns or operates a website dealing in substantial part in the display or performance of commercial recordings and audiovisual works to post their identifying information on the website, unless covered by an exemption.

CS/HB 375 - Structural Engineering Recognition Program for Professional Engineers
The bill:

- establishes the "Structural Engineering Recognition Program for Professional Engineers" (Program),
- requires the Board of Professional Engineers (Board) to recognize any licensed professional engineer who has successfully passed the National Council of Examiners for Engineering and Surveying Structural Engineering 16-hour PE Structural examination or any other examination approved by the Board, and specializes in structural engineering based on alternative criteria determined by the Board,
- provides that upon application to the Board, a professional engineer who has the minimum program requirements must be recognized as a professional engineer who has gone above and beyond in the field of structural engineering,
- prohibits the Board from collecting a fee for the application or for recognition by the Program,
- authorizes a professional engineer who is recognized by the Program to identify the recognition in her or his professional practice, including in marketing and advertising materials,
- provides that recognition by the Program is not required for a professional engineer to practice structural engineering, and
- requires the Board to adopt rules to implement these requirements.

CS/CS/HB 423 - Building Regulation
The bill:
• allows a person to sit for the building inspector or plans examiner licensure test by completing a 4-year internship with a private provider or a private provider's firm in certain circumstances,
• prohibits the Building Code Administrators and Inspectors Board (BCAIB) from issuing a provisional license with a requirement that such licensee be employed by a local government,
• allows a person with a provisional license from the BCAIB to be a duly authorized representative for a private provider in certain circumstances,
• requires local governments to provide equal access to all building permitting and inspection documents to a private provider, owner, and contractor in certain circumstances,
• defines "reasonable administrative fee," for purposes of determining the amount of a fee for a building permit when a contractor or owner uses a private provider,
• increases the amount of time that local building officials have to issue a certificate of occupancy or a notice of deficiencies for building permits that are not related to single- or two-family dwellings,
• provides that if a notice of deficiency is not issued within the required time-period a certificate of occupancy is "automatically" granted, instead of "deemed" granted, and local building officials must provide the applicant with the certificate within 10 days,
• prohibits local governments from preventing private property owners from demolishing single family buildings that are in certain flood zones, while exempting certain historic buildings,
• limits the review process for applications for such demolition permits,
• prohibits local governments from requiring additional building requirements for new homes built on the construction site of certain demolished single-family buildings,

- limits the amount of times that local governments can request additional information for certain building permit applications and requires local governments to review such information within a certain time-period, and
- provides a cause of action for certain individuals and associations to enforce the requirement that local governments must use excess funds generated by Building Code enforcement for lawful purposes.

CS/CS/HB 559 - Military Occupational Licensure
The bill requires DBPR to expedite all license applications submitted by a spouse of an active duty member of the U.S. Armed Forces, and issue licenses within 7 days after receipt of such applications. It also requires the Department of Health to issue a full professional license, rather than a temporary license, to qualified applicants that are spouses of members of the military, and to do so within 7 days after receipt of all required documentation, expedite all applications submitted by an active duty member's spouse, and waive the $65 application fee.