

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1335 Department of Business and Professional Regulation

SPONSOR(S): Maggard

TIED BILLS: **IDEN./SIM. BILLS:** SB 1544

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	12 Y, 2 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee		Helpling	Topp
3) Commerce Committee			

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating various businesses and professions throughout the state, including tobacco; nicotine products; alcohol; drugs, devices, and cosmetics; construction contractors; asbestos abatement; pilots; elevators; employee leasing companies; certified public accountants (CPAs); real estate; barbers; cosmetologists; and mobile homes.

The bill:

- Requires applicants and licensees for the following to create and maintain an online account for communication with DBPR:
 - Tobacco and nicotine product industry,
 - Alcohol industry,
 - CPAs and firms, and
 - Elevator industry.
- Increases the amount of the required surety bond that a tobacco product distributor must maintain with DBPR to \$25,000, from \$1,000.
- Allows DBPR to determine additional surety amounts or reduce surety amounts for tobacco products distributors based on certain factors.
- Dissolves and replaces with DBPR-run programs:
 - The Florida Mobile Home Relocation Corporation, and
 - The Board of Employee Leasing Companies.
- Increases caps on claims and lifetime limits for the Florida Homeowners' Construction Recovery Fund.
- Removes an obsolete provision from the barber and cosmetology practice acts.
- Removes certain mentorship and eligibility requirements for pilots.
- Removes a time limit on using a real estate course completion for licensure.
- Removes certain financial responsibility proof requirements for asbestos abatement professionals.
- Allows local construction contractor licensing agencies to recommend restitution as a disciplinary action.
- Allows applicants to be a designated representative for certain pharmaceutical wholesalers to prove experience in two new ways.

The bill has a negative, indeterminate fiscal impact on state government and no impact on local governments. See Fiscal Impact & Economic Impact Statement.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through the following divisions:

- The Division of Administration,
- The Division of Alcoholic Beverages and Tobacco (ABT),
- The Division of Certified Public Accounting (DCPA),
- The Division of Drugs, Devices, and Cosmetics (DDC),
- The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH),
- The Division of Hotels and Restaurants (H&R),
- The Division of Pari-mutuel Wagering,
- The Division of Professions (Professions),
- The Division of Real Estate (DRE),
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.¹

Professions licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists,
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.²

DCPA is responsible for the regulation of certified public accountants and accounting firms in the state.³

DRE is responsible for the regulation of real estate sales associates, brokers, and appraisers, in conjunction with the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.⁴

¹ S. 20.165, F.S.

² Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/> (last visited Jan. 21, 2024).

³ S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, [Certified Public Accounting – MyFloridaLicense.com](http://www.myfloridalicense.com) (last visited Jan. 21, 2024).

⁴ S. 475.021, F.S.

The Division of Regulation is the enforcement authority for the Florida Athletic Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.⁵ To ensure compliance with applicable laws and rules by those professions and related businesses, the division investigates complaints, utilizes compliance mechanisms, and performs inspections.⁶

DDC protects the health, safety, and welfare of Floridians from adulterated, contaminated, and misbranded drugs, drug ingredients, and cosmetics by enforcing Part I of ch. 499, F.S., the Florida Drug and Cosmetic Act (FDCA).⁷ The Act conforms to United States Food and Drug Administration (FDA) drug laws and regulations and authorizes DBPR to issue permits to Florida drug manufacturers and wholesale distributors and register drugs manufactured, packaged, repackaged, labeled, or relabeled in Florida.⁸

ABT regulates the manufacture, distribution, sale, and service of alcoholic beverages and tobacco products in Florida, including:

- receipt and processing of license applications;
- collection and auditing of taxes, surcharges, and fees paid by licensees; and
- enforcement of the laws and regulations governing the sale of alcoholic beverages and tobacco products.⁹

FCTMH provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.¹⁰ FCTMH has limited regulatory authority over the following business entities and individuals:¹¹

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction is limited to arbitration of election and recall disputes).

H&R licenses, inspects and regulates public lodging and food service establishments in Florida. The division also licenses and regulates elevators, escalators and other vertical conveyance devices.¹²

Tobacco and Nicotine Products – Current Situation

ABT is responsible for the regulation of tobacco products under ch. 210, F.S., which sets out tax requirements specific to cigarettes and tobacco products, and ch. 569, F.S., which sets out requirements for tobacco sales.¹³

A person, firm, association, or corporation must obtain a permit from ABT to function as any of the following in Florida:

- Retail tobacco products dealer,¹⁴
- Cigarette manufacturer,¹⁵
- Cigarette wholesale dealer,¹⁶

⁵ Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.

⁶ Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/DBPR/division-of-regulation/> (last visited Jan. 21, 2024).

⁷ Florida Department of Business and Professional Regulation, *Division of Drugs, Devices, and Cosmetics*, available at <http://www.myfloridalicense.com/DBPR/drugs-devices-and-cosmetics/> (last visited Mar. 19, 2021).

⁸ S. 499.01, F.S.

⁹ Florida Department of Business and Professional Regulation, *Division of Alcoholic Beverages and Tobacco*, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/> (last visited Mar. 19, 2021).

¹⁰ Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/>, (last visited Mar. 19, 2021).

¹¹ *Id.*

¹² Florida Department of Business and Professional Regulation, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Mar. 19, 2021).

¹³ S. 561.02, F.S.

¹⁴ S. 569.003, F.S.

¹⁵ Ss. 210.01(21) and 210.15, F.S.

- Cigarette distributing agent,¹⁷
- Cigarette importer,¹⁸
- Cigarette exporter,¹⁹ or
- Cigar wholesale dealer,²⁰
- Tobacco wholesale dealer/distributor,²¹ or
- Retail nicotine products dealer.²²

“Cigarettes” are defined in s. 210.01(1), F.S., relating to state taxes on cigarettes, as “any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.” This definition does not include cigars.

“Tobacco products” are defined in s. 210.25(11), F.S., relating to state taxes on tobacco products other than cigarettes or cigars, as “loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing.”

“Nicotine product” means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means.

The term also includes any nicotine dispensing device. The term does not include a:

- Tobacco product.
- Product regulated as a drug or device by the FDA under Chapter V of the FDCA; or
- Product that contains incidental nicotine.²³

There is currently no requirement that a tobacco or nicotine products licensee must apply using or maintain an online account with ABT.

Tobacco and Nicotine Product Online Account – Effect of the Bill

The bill requires each person or entity licensed or permitted or applying for a cigarette, tobacco product, nicotine, or cigar license or permit within Florida to:

- Create and maintain an account with ABT's online system, and
- Provide an e-mail address to ABT to function as the primary means of contact for all communication by ABT to the licensee, permittee, or applicant.
- maintaining accurate contact information on file with ABT.

The bill also provides that:

- A person or an entity seeking such a license or permit must apply using forms furnished by ABT which are filed through ABT's online system before commencing operations.
- ABT may not process an application for a license or permit unless the application is submitted through ABT's online system.

Surety Bond for Tobacco Product Distributor's License – Current Situation

Each application for a tobacco product distributor's license must be accompanied by a corporate surety bond issued by a surety company authorized to do business in Florida, conditioned for the payment

¹⁶ Ss. 210.01(6) and 210.15(1), F.S.

¹⁷ Ss. 210.01(14) and 210.15(1), F.S.

¹⁸ Ss. 210.01(20) and 210.15(1), F.S.

¹⁹ Ss. 210.01(17) and 210.15(1), F.S.

²⁰ S. 210.65(2), F.S.

²¹ Ss. 210.25(5) and 210.40, F.S.

²² S. 569.31(6), F.S.

²³ S. 569.31(4), F.S.

when due of all taxes, penalties, and accrued interest which may be due the state. The bond must be in the sum of \$1,000 and in a form prescribed by ABT.

Whenever ABT finds that the bond given by a licensee is inadequate to fully protect the state, ABT must require an additional bond in such amount as is deemed sufficient. A separate application for a license must be made for each place of business at which a distributor proposes to engage in business as a distributor, but an applicant may provide one bond in an amount determined by ABT for all applications made by the distributor.²⁴

Surety Bond for Tobacco Product Distributor's License – Effect of the Bill

The bill increases the amount of the required tobacco product distributor corporate surety bond to \$25,000, from \$1,000.

The bill requires ABT to review the amount of the corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state. ABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

The bill requires that a corporate surety bond, with the sum determined by ABT, is required for renewal of a distributor's license.

The bill allows ABT to prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

The bill allows ABT to reduce the amount of a corporate surety bond upon a distributor's showing of **good cause**. In determining the amount of the surety bond:

- "Good cause" means a consistent pattern of **responsible financial behavior** by the distributor over a period of at least the preceding 4 years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding 4 years.
- "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding 4 years.

The bill prohibits ABT from reducing a corporate surety bond amount when a licensee:

- Is in default of any tax liabilities, penalties, or interest due to the state;
- Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;
- Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or
- Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

The bill provides that such a matter is "fully resolved" if the criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

The bill requires ABT to notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date on which the distributor's audited tax assessments become final.

The bill provides that a decision by ABT on the amount of the surety bond is not subject to review under s. 120.60, F.S., including judicial review.²⁵

The bill allows ABT to adopt rules related to surety bonds.

Alcohol – Current Situation

In Florida, the Beverage Law²⁶ regulates the manufacture, distribution, and sale of wine, beer, and liquor by licensed or permitted manufacturers, distributors, and vendors.²⁷

Any person or entity currently licensed or permitted by ABT must provide an electronic mail address to function as the primary contact for all communication by ABT to the licensee or permittee. Licensees and permittees are responsible for maintaining accurate contact information on file with ABT.²⁸ However, there is no similar requirement for applicants.

Alcohol – Effect of the Bill

The bill requires all applicants for an alcohol license or permit to:

- Provide an electronic mail address to function as the primary means of contact for all communication by ABT,
- Maintain accurate contact information on file with ABT, and
- Apply using forms prepared by ABT and filed through ABT's online system before engaging in any business for which a license or permit is required.

The bill provides that ABT may not process an application for an alcohol license unless the application is submitted through the ABT's online system.

Elevators – Current Situation

Chapter 399, F.S., regulates elevator safety procedures, and is enforced by H&R. H&R issues the following:²⁹

- Permits to install, relocate, or alter elevators,
- Certificates of operation for elevators, and
- Licenses for:
 - Elevator companies,
 - Elevator technicians, and
 - Elevator inspectors.

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Elevators – Effect of the Bill

The bill requires persons who have or are applying for an elevator license, certificate, or permit to:

- Create and maintain an online account with H&R,
- Provide an e-mail address to the division to function as the primary means of contact for all communication from H&R, and
- Maintain accurate contact information on file with H&R.

The bill allows H&R to adopt rules to implement this provision.

²⁵ Chapter 120, F.S., the Administrative Procedure Act (APA), provides uniform procedures for state agencies, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications. Section 120.60, F.S., provides the process for the granting or denial of license applications upon receipt of a license application, including judicial review of a decision.

²⁶ Section 561.01(6), F.S., provides that the "The Beverage Law" includes chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

²⁷ See s. 561.14, F.S.

²⁸ S. 561.17(5), F.S.

²⁹ S. 399.01, F.S.

Certified Public Accountants – Current Situation

The Florida Board of Accounting under DCPA is responsible for regulating and licensing certified public accountants (CPA) and accounting firms in Florida.³⁰

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Certified Public Accountants – Effect of the Bill

A person applying to the department to take the licensure examination, or for licensure as a CPA or firm, must:

- Create and maintain an online account with DBPR,
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from DBPR,
- Maintain accurate contact information on file with DBPR, and
- Submit any change in the applicant's e-mail address or home address within 30 days after any contact information changes. All changes must be submitted through DBPR's online system.

Pilots – Current Situation

Chapter 310, F.S., regulates the piloting of vessels utilizing the navigable waters of Florida in order that such resources, the environment, life, and property may be protected to the fullest extent possible.³¹ The Board of Pilot Commissioners is responsible for licensing and regulating pilots and determines the number of pilots in a port based on the supply and demand for piloting services and the public interest in maintaining efficient and safe piloting services.³²

“Pilot” means a licensed state pilot or a certificated deputy pilot.³³

The pilot or pilots in a port must train and compensate all deputy pilots in that port and establish a competency-based mentor program by which minority persons³⁴ may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. DBPR must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons who:

- Have participated in each mentor program,
- Are licensed state pilots or certificated deputy pilots, and
- Have applied for state pilot licensure or deputy pilot certification.³⁵

When DBPR examines applications for a certificate as deputy pilot, and finds them qualified, DBPR must certify all such applicants as qualified, provided that not more than five persons who passed the examination are certified for each declared opening.³⁶

³⁰ S. 473.303, F.S.

³¹ S. 310.001, F.S.

³² S. 310.061, F.S.

³³ S. 310.002(2), F.S.

³⁴ As defined in s. 288.703, which means a lawful, permanent resident of Florida who is:

- An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.
- A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
- A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services.
- An American woman.

³⁵ S. 310.0015(3)(d), F.S.

³⁶ S. 310.081(2), F.S.

If more than five applicants per opening pass the examination, the persons having the highest scores must be certified as qualified up to the number of openings times five. DBPR must give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession. DBPR must appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state.³⁷

Pilots – Effect of the Bill

The bill removes the requirement for a competency-based mentor program for minority persons and the related report.

The bill removes the requirement that DBPR must consider the minority and female status of applicants when qualifying deputy pilots.

Employee Leasing Companies – Current Situation

Generally, “employee leasing” means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.³⁸

The Board of Employee Leasing Companies licenses and regulates employee leasing companies³⁹ and consists of seven members to be appointed by the Governor and confirmed by the Senate, as follows:⁴⁰

- Five members of the board must be chosen from licensed individuals already engaged in the employee leasing industry.
- Two board members must be Florida residents and must not be, or ever have been, connected with the business of employee leasing.⁴¹

Employee Leasing Companies – Effect of the Bill

The bill dissolves the Board of Employee Leasing Companies, and provides that employee leasing companies will be regulated as a DBPR-run licensing program.

The bill makes conforming changes.

³⁷ *Id.*

³⁸ S. 468.520(4), F.S.

³⁹ S. 468.521, F.S.

⁴⁰ S. 468.521(1), F.S.

⁴¹ S. 468.521(2), F.S.

Real Estate – Current Situation

The Florida Real Estate Commission (FREC), within the DRE, administers and enforces real estate licensing laws applicable to real estate brokers⁴² and sales associates.⁴³

“Broker” means, in pertinent part, a person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or implied, or with an intent to collect or receive a compensation or valuable consideration therefore, appraises, auctions, sells, exchanges, buys, rents any real property or an interest in or concerning the same; or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in such business.⁴⁴

“Sales associate” means a person who performs any act specified in the definition of “broker,” but who performs such act under the direction, control, or management of a broker.⁴⁵

FREC must certify for licensure any applicant who satisfies the education, character, and examination requirements. An application for licensure expires 2 years after the date received if the applicant does not pass the appropriate examination within that time. Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful course completion may not be used for licensure.⁴⁶

Real Estate – Effect of the Bill

The bill allows an applicant to use any completion of a required course for licensure, regardless if the applicant has not passed the examination within a certain timeframe.

Barbers and Cosmetologists – Current Situation

The Barbers’ Board under Ch. 476, F.S., governs the regulation and licensing of barbers and barbershops in the state. A barber license is required to perform barbering services.⁴⁷ Barbering services include hair services and limited skin care services when done for compensation, but not for medical purposes.⁴⁸

The Board of Cosmetology under Ch. 477, F.S., governs the licensing and regulation of cosmetologists, nail specialists, facial specialists, full specialists, and related salons in the state. A cosmetology license or a specialty registration is required to perform cosmetology services. Cosmetology services include hair services, nail services, and skin care services when done for compensation, but not for medical purposes.⁴⁹

Both practice acts contain conflicting provisions related to licensure by endorsement, where one provision requires licensure in another jurisdiction for a year to qualify,⁵⁰ and another allows a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.⁵¹

⁴² S. 475.01(1)(a), F.S.

⁴³ S. 475.01(1)(j), F.S.

⁴⁴ S. 475.01(1)(a), F.S.

⁴⁵ S. 475.01(1)(j), F.S.

⁴⁶ S. 475.181(2), F.S.

⁴⁷ S. 476.144(1), F.S.

⁴⁸ S. 476.034(2), F.S.

⁴⁹ S. 477.013(4), F.S.

⁵⁰ Ss. 476.114(2)(c)1. and 477.019(2)(c)1., F.S.

⁵¹ Ss. 476.144(5) and 477.019(6), F.S.

Barbers and Cosmetologists – Effect of the Bill

The bill removes a conflicting provision for licensure by endorsement, and allows barbers and cosmetologists licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.

Asbestos Consultants and Contractors – Current Situation

Asbestos consultants and contractors are regulated by ch. 469, F.S., and licensed by the Asbestos Licensing Unit in DBPR. Florida licensing standards must also comply with the U.S. Environmental Protection Agency's Asbestos Model Accreditation Plan for States (MAP), which includes mandatory nationwide standards for testing and education.⁵²

“Asbestos abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.⁵³

An asbestos consultant may:

- Conduct an asbestos survey,
- Develop an operation and maintenance plan,
- Monitor and evaluate asbestos abatement, and
- Prepare asbestos abatement specifications.⁵⁴

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.⁵⁵

In addition to proving certain experience, education, and completion of examination, an applicant for licensure as either an asbestos consultant or contractor also must provide evidence of financial responsibility. Criteria used by DBPR to determine financial responsibility must include, but is not be limited to, credit history and limits of bondability and credit.⁵⁶

Asbestos Consultants and Contractors – Effect of the Bill

The bill removes the requirement for DBPR to consider an applicant's limits of bondability when determining an asbestos consultant or contractor applicant's financial responsibility.

Designated Representatives – Current Situation

DDC has broad authority to inspect and discipline DDC permittees for violations of state or federal laws and regulations, which can include seizure and condemnation of adulterated or misbranded drugs or suspension or revocation of a permit.⁵⁷

Each establishment that is issued a permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to DBPR at least one natural person to serve as the designated representative of the wholesale distributor. Such person must have an active certification as a designated representative from DBPR.⁵⁸

A designated representative:

- Must be actively involved in and aware of the actual daily operation of the wholesale distributor.
- Must be employed full time in a managerial position by the wholesale distributor.

⁵² 40 C.F.R. § 763 Appendix C to Subpart E.

⁵³ S. 469.001(1), F.S.

⁵⁴ S. 469.003, F.S.

⁵⁵ S. 469.003(3), F.S.

⁵⁶ S. 469.005-.006, F.S.

⁵⁷ Ss. 499.051, 499.062, 499.065, 499.066, 499.0661, and 499.067, F.S.

⁵⁸ S. 499.012(15)(a), F.S.

- Must be physically present at the establishment during normal business hours, except for time periods when absent due to illness, family illness or death, scheduled vacation, or other authorized absence.
- May serve as a designated representative for only one wholesale distributor at any one time.⁵⁹

To be certified as a designated representative, a natural person must:

- Submit an application and pay the appropriate fees.
- Be at least 18 years of age.
- Have at least 2 years of verifiable full-time:
 - Work experience in a pharmacy licensed in Florida or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;
 - Managerial experience with a prescription drug wholesale distributor licensed in Florida or in another state; or
 - Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs.
- Pass the required examination.
- Provide DBPR with a personal information statement and fingerprints.⁶⁰

Designated Representatives – Effect of the Bill

The bill adds two additional ways that an applicant may demonstrate work experience in order to obtain a license as a designated representative, as follows:

- Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; and
- Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

Local Construction Contractor Licensing – Current Situation

Chapter 489, F.S., relates to “contracting,” with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR. The CILB is responsible for licensing statewide construction contractors and regulating the construction industry in Florida under part I of Ch. 489, F.S.,⁶¹ and is divided into two divisions with separate jurisdictions:

- Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.⁶²
- Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.⁶³

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of

⁵⁹ S. 499.012(15)(d), F.S.

⁶⁰ S. 499.012(15)(b), F.S.

⁶¹ See s. 489.107, F.S.

⁶² See s. 489.105(3)(a)-(c), F.S.

⁶³ S. 489.105(3) (d) - (q), F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.⁶⁴

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.⁶⁵

“Registered contractors” are individuals licensed at the local level that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.⁶⁶ Registered contractors must register the local license with the CILB.

The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of part I of Ch. 489, F.S., as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may:

- Require restitution,
- Impose a suspension or revocation of the local license,
- Impose a fine not to exceed \$5,000, or
- Impose a combination thereof.⁶⁷

In addition to any disciplinary action the local jurisdiction enforcement body may take against the local licensee, the local jurisdiction enforcement body must issue a recommended penalty to the CILB for the CILB to take additional action. This recommended penalty may include a recommendation for:

- No further action,
- Suspension,
- Revocation,
- Restriction of the registration,
- A fine to be levied by CILB, or
- A combination thereof.⁶⁸

Currently, a local jurisdiction enforcement body may not recommend that the CILB require restitution as an action against the local contractor.

Local Construction Contractor Licensing – Effect of the Bill

The bill allows a local jurisdiction enforcement body to recommend that the CILB require restitution from the local contractor.

The bill requires that the recommended penalty must specify the practice act violations upon which the recommendation is based.

Florida Homeowners’ Construction Recovery Fund – Current Situation

The Florida Homeowners’ Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.⁶⁹ A homeowner must have engaged a contractor for construction or improvement of

⁶⁴ S. 489.105(8), F.S.

⁶⁵ S. 489.105(3)(q), F.S.

⁶⁶ S. 489.105(10), F.S.

⁶⁷ S. 489.131(7)(b), F.S.

⁶⁸ S. 489.131(7)(c), F.S.

⁶⁹ See ss. 489.140-489.144, F.S.

the homeowner's Florida residence, and the damage must have been caused by a Division I licensee or a Division II licensee.⁷⁰

Claims are filed with DBPR, who reviews for completeness and statutory eligibility. DBPR then presents the claim to the Construction Industry Licensing Board (CILB) for review.⁷¹

Current law requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.⁷²

The maximum amounts payable for recovery fund claims and the total lifetime aggregate limits are set forth in s. 489.143, F.S.,⁷³ as follows:

- Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, recovery fund claims are limited to a \$50,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of \$500,000 for each Division I licensee.
- Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, (the date that claims against Division II licensees were first authorized to be filed), recovery fund claims are limited to a \$15,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of \$150,000 for each Division II licensee.

Claims awarded to a claimant by the CILB are paid in the order that they are filed, up to the lifetime aggregate limits for each transaction and licensee, and to the limits of amounts appropriated to pay claims against the recovery fund.⁷⁴ Payments may not exceed the total claim limits or lifetime aggregate limits.⁷⁵

As of July 31, 2023, the overall Recovery Fund balance was \$23,235,064.00. For fiscal years 20/21, 21/22, and 22/23, the average amount of revenue going into the fund from the surcharge per fiscal year was \$6,188,495.00, and the average amount of claims awarded was \$2,882,184 per fiscal year. However, between FY 20/21 and FY 22/23, the number of claims presented and awarded each year more than doubled. In FY 22/23, **232** claims were awarded for a total amount of \$4,449,552.00. Of the 232 claims, 125 were against Division I contractors, and 107 were against Division II contractors.⁷⁶

Florida Homeowners' Construction Recovery Fund – Effect of the Bill

The bill increases the maximum amounts payable for recovery fund claims and the total lifetime aggregate limits as follows:

- Beginning January 1, 2025, for each Division I contract entered into after July 1, 2024, recovery fund claims are limited to a \$100,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of \$2 million for each Division I licensee.
- Beginning January 1, 2025, for each Division II contract entered into on or after July 1, 2024, recovery fund claims are limited to a \$30,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of \$600,000 for each Division II licensee.

⁷⁰ Section 489.1402, F.S., defines the term "residence" to mean "a single-family residence, an individual residential condominium or cooperative unit, or a residential building containing not more than two residential units in which the owner contracting for the improvement is residing or will reside 6 months or more each calendar year upon completion of the improvement."

⁷¹ S. 489.1401(2), F.S.

⁷² S. 468.631, F.S.

⁷³ For recovery fund claims for contracts entered into before July 1, 2004, see s. 489.143(6), F.S.

⁷⁴ S. 489.143(7), F.S.

⁷⁵ *Id.*

⁷⁶ DBPR, Agency Analysis of 2024 House Bill 1335, p.3 (Jan. 8, 2024).

Florida Mobile Home Relocation Corporation – Current Situation

Chapter 723, F.S., the “Florida Mobile Home Act,” addresses the unique relationship between a mobile home owner and a mobile home park owner.⁷⁷ The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.⁷⁸

Chapter 723.003, F.S., provides the following relevant definitions:

- “Mobile home park” or “park” means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.⁷⁹
- “Mobile home owner,” “mobile homeowner,” “home owner,” or “homeowner” means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.⁸⁰

In 2001, the Legislature created the Florida Mobile Home Relocation Corporation (corporation) in s. 723.0611, F.S., to provide for the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park.⁸¹ Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner from the Florida Mobile Home Relocation Trust Fund.⁸²

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home or \$6,000 for a multi-section mobile home, whichever is less.⁸³

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of \$1,375 for a single section mobile home and \$2,750 for a multi-section mobile home.⁸⁴ Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.⁸⁵ The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.⁸⁶

The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if:⁸⁷

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner’s expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action for nonpayment of lot rental amount filed against him or her prior to the mailing date of the change in the use of land.

The corporation is administered by a board of directors made up of 6 members who are each appointed by the Secretary of DBPR from a list of nominees:⁸⁸

- The Federation of Manufactured Home Owners of Florida submits nominees for 3 board members. This organization is comprised of residents who reside in mobile home parks.

⁷⁷ S. 723.004, F.S.

⁷⁸ S. 723.002(1), F.S.

⁷⁹ S. 723.003(12), F.S.

⁸⁰ S. 723.003(11), F.S.

⁸¹ Ch. 2001-227, L.O.F.

⁸² Ss. 723.007(2), 723.0612(2) and (7), F.S.

⁸³ S. 723.0612(1), F.S.

⁸⁴ S. 723.0612(7), F.S.

⁸⁵ *Id.*

⁸⁶ S. 723.0612(7), F.S.

⁸⁷ Ss. 723.0612(2) and (7), F.S.

⁸⁸ S. 723.0611(1), F.S.

- The Florida Manufactured Housing Association submits nominees for 3 board members. This organization is comprised of park owners and operators.

The board has historically had an executive director who managed the administrative and financial transactions of the corporation, as well as performed other necessary functions. However, as of the end of June 2023, the corporation is being managed by a management company in Tallahassee.⁸⁹

The Mobile Home Relocation Trust Fund has a current balance of \$5,671,376.86. An accounting of the fund is as follows:⁹⁰

Revenue to the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Park Owner Fees	\$54,638	\$134,581	\$26,625	\$2,750	\$16,500
DHSMV Surcharge	\$438,631	\$378,405	\$406,433	\$412,814	\$401,807
FCTMH Surcharge	\$282,885	\$283,353	\$282,390	\$294,231	\$282,455
Interest	\$74,630	\$115,712	\$67,082	\$33,827	\$78,673
Total Revenue	\$850,784	\$912,051	\$782,530	\$743,622	\$779,435

Expenditures from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Transferred to corporation	\$338,450	\$422,000	\$357,086	\$284,573	\$241,592
Service Charge to General Revenue	\$65,960	\$74,671	\$64,334	\$56,773	\$61,901
Interest Assessment	\$3,598	\$4,241	\$4,655	\$4,770	\$5,358
Total Expenditures	\$408,008	\$500,912	\$426,075	\$346,116	\$308,788

Payouts from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Total Paid Out	\$68,250	\$141,500	\$9,875	\$4,125	\$29,125
Number of Payouts	30	61	4	2	16

Florida Mobile Home Relocation Corporation – Effect of the Bill

The bill dissolves the corporation and requires the FTCMH to take over its duties of running the Florida Mobile Home Relocation Program.

The bill conforms several related provisions to replace references to the corporation with FTCMH.

Appropriation from the Florida Mobile Home Relocation Trust Fund

The bill appropriates, for the 2024-2025 fiscal year, the sum of \$315,692 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

The bill provides an effective date of July 1, 2024.

⁸⁹ DBPR, *supra* note 76, at 5.

⁹⁰ Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Florida Mobile Home Relocation Trust Fund (Jan. 30, 2024),

B. SECTION DIRECTORY:

- Section 1: Amends s. 210.15, F.S.; relating to online account requirements for tobacco licensees.
- Section 2: Creates s. 210.32, F.S.; relating to online account requirements for tobacco licensees.
- Section 3: Amends s. 210.40, F.S.; relating to surety bond requirements for certain tobacco licensees.
- Section 4: Amends s. 310.0015, F.S.; relating to a mentor program to become a deputy pilot.
- Section 5: Amends s. 310.081, F.S.; relating to consideration of certain factors in licensing deputy pilots.
- Section 6: Creates s. 399.18, F.S.; relating to online account requirements for elevator licensees.
- Section 7: Creates s. 468.519, F.S.; creating the employee leasing licensing program.
- Section 8: Repeals s. 468.521, F.S.; dissolving the Board of Employee Leasing Companies.
- Section 9: Amends s. 469.006, F.S.; relating to requirements for asbestos abatement licensing.
- Section 10: Amends s. 473.306, F.S.; relating to online account requirements for CPA applicants.
- Section 11: Amends s. 473.308, F.S.; relating to online account requirements for CPA firm applicants.
- Section 12: Amends s. 475.181, F.S.; removing an examination expiration for certain real estate license applicants.
- Section 13: Amends s. 476.114, F.S.; removing a superfluous provision related to barber licenses.
- Section 14: Amends s. 477.019, F.S.; removing a superfluous provision related to cosmetology licenses.
- Section 15: Amends s. 489.131, F.S.; relating to disciplinary actions available to local governments for construction licensing.
- Section 16: Amends s. 489.143, F.S.; increasing thresholds for the Florida Homeowners' Construction Recovery Fund.
- Section 17: Amends s. 499.012, F.S.; relating to experience requirements for designated representatives of certain prescription drug wholesale distributors.
- Section 18: Amends s. 561.17, F.S.; relating to online account requirements for alcohol licensees.
- Section 19: Amends s. 569.00256, F.S.; relating to online account requirements for tobacco licensees.
- Section 20: Amends s. 569.3156, F.S.; relating to online account requirements for nicotine products licensees.
- Section 21: Amends s. 723.061, F.S.; conforming a provision.
- Section 22: Repeals s. 723.0611, F.S.; dissolving the Florida Mobile Home Relocation Corporation.
- Section 23: Amends s. 723.06115, F.S.; requiring FCTMH to administer the Florida Mobile Home Relocation Trust Fund.
- Section 24: Amends s. 723.06116, F.S.; conforming a provision.
- Section 25: Amends s. 723.0612, F.S.; conforming a provision.
- Section 26: Amends s. 20.165, F.S.; conforming a provision.
- Section 27: Amends s. 210.16, F.S.; conforming a provision.
- Section 28: Amends s. 212.08, F.S.; conforming a provision.
- Section 29: Amends s. 440.02, F.S.; conforming a provision.
- Section 30: Amends s. 448.26, F.S.; conforming a provision.
- Section 31: Amends s. 468.520, F.S.; conforming a provision.
- Section 32: Amends s. 468.522, F.S.; conforming a provision.
- Section 33: Amends s. 468.524, F.S.; conforming a provision.
- Section 34: Amends s. 468.5245, F.S.; conforming a provision.
- Section 35: Amends s. 468.525, F.S.; conforming a provision.
- Section 36: Amends s. 468.526, F.S.; conforming a provision.
- Section 37: Amends s. 468.527, F.S.; conforming a provision.
- Section 38: Amends s. 468.5275, F.S.; conforming a provision.
- Section 39: Amends s. 468.529, F.S.; conforming a provision.
- Section 40: Amends s. 468.530, F.S.; conforming a provision.
- Section 41: Amends s. 468.531, F.S.; conforming a provision.
- Section 42: Amends s. 468.532, F.S.; conforming a provision.
- Section 43: Amends s. 476.144, F.S.; conforming a provision.
- Section 44: Amends s. 627.192, F.S.; conforming a provision.
- Section 45: Reenacts s. 723.061, F.S.

- Section 46: Reenacts s. 48.184, F.S.
- Section 47: Reenacts s. 723.031, F.S.
- Section 48: Reenacts s. 723.032, F.S.
- Section 49: Reenacts s. 723.085, F.S.
- Section 50: Reenacts s. 320.08015, F.S.
- Section 51: Provides an appropriation from the Mobile Home Relocation Trust Fund to DBPR.
- Section 52: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By increasing the aggregate cap per licensee and the per claim cap for each contract, the number of claimants who receive compensation from the Florida Homeowner's Construction Recovery Fund and the amount of compensation will increase.

Removing the bondability requirement for asbestos abatement professionals will reduce the cost to applicants, estimated to be \$100 per applicant.⁹¹

D. FISCAL COMMENTS:

According to DBPR:

Since recovery fund claims under the Florida Homeowner's Construction Recovery Fund are required to be based on contracts for eligible work, and must be based on either a final order, judgment, or decree, any fiscal impact from the increase in the caps will likely not occur for at least a year, July 2025 at the earliest.⁹²

Modifications to DBPR's licensing system, Versa: Regulation (VR), and online system, Versa: Online (VO), related to creating and maintaining online accounts and changes to licensure processes, are required.⁹³ These changes can be made using existing resources.

Eliminating the Board of Employee Leasing Companies will result in a reduction of expenditures pertaining to board travel, costs, etc. However, the reduction in expenditures will be offset by the need for a consultant to review employee leasing licensure applications.

⁹¹ *Id.* at.10.

⁹² *Id.* at 12.

⁹³ *Id.* at 10.

By increasing the aggregate cap per licensee and the per-claim cap for each contract, the number and amounts of Florida Homeowner's Construction Recovery Fund claims awarded will increase. However, the impact is indeterminate.

DBPR states that additional resources will be needed in FCTMH to administer the Florida Mobile Home Relocation Program - 4 FTE positions, \$175,000 salary rate, and \$315,992 of budget authority (\$296,122 recurring and \$19,750 nonrecurring).⁹⁴

The bill appropriates, for the 2024-2025 fiscal year, the sum of \$315,692 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR will need to amend several rules related to requiring online accounts, dissolving the Board of Employee Leasing Companies, dissolving the Florida Mobile Home Relocation Corporation, and changing licensure requirements for asbestos abatement professionals.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

⁹⁴ *Id.*