

Committee Substitute for Senate Bill No. 1744

An act relating to the Department of Agriculture and Consumer Services; providing for a type two transfer of the licensing and regulation of Professional Surveyors and Mappers from the Division of Professions within the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services; amending s. 20.165, F.S.; conforming provisions to changes made by the act; amending s. 472.005, F.S.; revising a definition; creating s. 472.006, F.S.; setting forth the powers and duties of the Department of Agriculture and Consumer Services relating to surveyors and mappers; amending s. 472.007, F.S.; providing for the Board of Professional Surveyors and Mappers to be located within the Department of Agriculture and Consumer Services; providing for the appointment of members to the board; requiring each board member to be accountable to the Commissioner of Agriculture; creating s. 472.0075, F.S.; providing that the board may be contacted through the department; amending s. 472.008, F.S.; authorizing the board to adopt rules; authorizing the department to challenge any rule of the board; creating s. 472.0101, F.S.; authorizing the participation of foreign-trained professionals under certain specified circumstances; amending s. 472.011, F.S.; requiring that fees collected pursuant to ch. 472, F.S., be deposited into a specified trust fund; authorizing the board to assess and collect certain fees; creating s. 472.0131, F.S.; requiring the department to prepare for professional examinations; creating s. 472.0132, F.S.; declaring that the wrongful taking or copying of an examination is a felony of the third degree; creating s. 472.0135, F.S.; providing for educational competencies; amending s. 472.015, F.S.; requiring any person desiring to be licensed to apply to the department in writing on a form prepared and furnished by the department; authorizing the department to collect a license fee; creating s. 472.016, F.S.; requiring that members of the Armed Forces be kept in good standing and not be charged dues and fees while on active duty; creating s. 472.0165, F.S.; providing qualifications and standards for immigrants who desire to be licensed as a surveyor or mapper; amending s. 472.018, F.S.; providing for continuing education; requiring the board to establish the criteria and course content for continuing education courses; creating s. 472.0201, F.S.; providing for access to public records; providing for certain specified exceptions; creating s. 472.02011, F.S.; prohibiting persons from disseminating confidential information; creating s. 472.0202, F.S.; prohibiting a person from practicing the profession without an active status license; setting forth the permissible activities of an inactive licensee; creating s. 472.0203, F.S.; requiring the department to send a notice of renewal to the licensee; creating s. 472.0204, F.S.; requiring each licensee to notify the department in writing of the licensee's current mailing address and place of practice; amending s. 472.033, F.S.; providing for disciplinary proceedings; providing for investigations; creating s. 472.0335, F.S.; providing for the classification of disciplinary actions; classifying actions

as minor violations; creating s. 472.034, F.S.; providing for mediation of disciplinary actions; providing procedures; creating s. 472.0345, F.S.; authorizing the department and the board the authority to issue citations; providing mediation procedures; creating s. 472.0351, F.S.; setting forth the grounds for disciplinary proceedings; listing the acts that are grounds for disciplinary actions; creating s. 472.0355, F.S.; providing disciplinary guidelines; creating s. 472.036, F.S.; providing penalties for the unlicensed practice of surveying and mapping; authorizing the department to issue a citation; providing for a civil penalty; creating s. 472.0365, F.S.; authorizing the department to collect a fee to support enforcement activities; providing requirements for the Department of Agriculture and Consumer Services and the Department of business and Professional Regulation to minimize any interruption of service or function resulting from the transfer of duties; amending s. 482.2401, F.S.; replacing a requirement that the department use all revenues from certain administrative fines to support research or education in pest control with an authorization to use such available revenues for those purposes; amending s. 487.041, F.S.; establishing supplemental biennial registration fees for certain brands of pesticide; requiring the department to adopt rules publishing a list of active ingredients contained in pesticides for which the supplemental fee is required; providing for retroactive assessment of the supplemental fees; providing for use of the revenues collected from the fees; providing for retroactive application; creating s. 531.60, F.S.; requiring a permit for weights and measures instruments or devices used commercially or tested by the department; creating s. 531.61, F.S.; providing exemptions from permit requirements; creating s. 531.62, F.S.; providing for permit application and annual renewal; creating s. 531.63, F.S.; providing for maximum permit fees based on the number and capacity of such instruments or devices; creating s. 531.64, F.S.; providing for the suspension or revocation of permits; creating s. 531.65, F.S.; authorizing the department to take certain actions and impose penalties for unpermitted use; creating s. 531.66, F.S.; directing the department to develop forms and adopt rules; providing for future expiration of such provisions requiring a permit for a weights and measures instrument or device and providing for permit fees and enforcement; amending ss. 576.021 and 576.045, F.S.; revising fees for the registration of specialty fertilizers; amending s. 578.08, F.S.; revising fees for the registration of seed dealers; amending s. 589.08, F.S.; limiting the payment of a certain percentage of the gross receipts from a state forest to fiscally constrained counties; amending s. 589.081, F.S.; limiting the payment of a certain percentage of the gross receipts from specified state forests to the board of county commissioners and the school board of certain fiscally constrained counties; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. All powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and

other funds for the licensing and regulation of Professional Surveyors and Mappers are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Division of Professions within the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services.

Section 2. Paragraph (a) of subsection (4) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(4)(a) The following boards are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. Barbers' Board, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

6. Board of Cosmetology, created under chapter 477.

7. Electrical Contractors' Licensing Board, created under part II of chapter 489.

8. Board of Employee Leasing Companies, created under part XI of chapter 468.

9. Board of Landscape Architecture, created under part II of chapter 481.

10. Board of Pilot Commissioners, created under chapter 310.

11. Board of Professional Engineers, created under chapter 471.

12. Board of Professional Geologists, created under chapter 492.

~~13. Board of Professional Surveyors and Mappers, created under chapter 472.~~

13.14. Board of Veterinary Medicine, created under chapter 474.

Section 3. Subsection (2) of section 472.005, Florida Statutes, is amended, and subsection (14) is added to that section, to read:

472.005 Definitions.—As used in ss. 472.001-472.037:

(2) "Department" means the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~.

(14) “Commissioner” means the Commissioner of Agriculture.

Section 4. Section 472.006, Florida Statutes, is created to read:

472.006 Department; powers and duties.—The department shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses. However, the department may issue up to a 4-year license to selected licensees notwithstanding any other law to the contrary. Fees for such renewal may not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of the board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on the board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the profession and with the structure of the department.

(5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter. The department also is authorized to join with, or withhold approval of, rules proposed for adoption by the board.

(6) Establish uniform application and other forms, including certificates of licensure, necessary to administer the provisions of this chapter. This subsection does not authorize the department to vary any substantive requirements, duties, or eligibilities for licensure or certification as provided by law.

(7) Establish by rule procedures by which the department shall use the expert or technical advice of the board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(8) Require all proceedings of the board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to ensure the accurate transcription of all matters so recorded.

(9) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the board.

(10) Have authority to:

(a) Close and terminate deficient license application files 2 years after the board or the department notifies the applicant of the deficiency; and

(b) Approve applications for professional licenses that meet all statutory and rule requirements for licensure.

(11) Provide legal counsel for the board by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The board shall periodically review and evaluate the services provided by its board counsel. Fees and costs of such counsel shall be paid from the General Inspection Trust Fund, subject to ss. 215.37 and 472.011. All contracts for independent legal counsel must provide for periodic review and evaluation by the board and the department of services provided.

(a) The department may employ or use the legal services of outside counsel and the investigative services of outside personnel.

(b) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to the practice of surveying and mapping shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

Section 5. Section 472.007, Florida Statutes, is amended to read:

472.007 Board of Professional Surveyors and Mappers.—There is created in the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ the Board of Professional Surveyors and Mappers.

(1) The board shall consist of nine members, six of whom shall be registered surveyors and mappers primarily engaged in the practice of surveying and mapping, one of whom shall be a registered surveyor and mapper with the designation of photogrammetrist, and two of whom shall be laypersons who are not and have never been surveyors and mappers or members of any closely related profession or occupation.

(2) Members shall be appointed by the Commissioner of Agriculture, subject to confirmation by the Senate for 4-year terms.

(a) Members shall be appointed for 4-year terms and such terms shall expire on October 31. However, a term of less than 4 years may be used to ensure that no more than 3 members' terms expire during the same calendar year.

(b) A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed. A vacancy on the board must be filled for the unexpired portion of the term in the same manner as the original appointment. A member may not serve for more than the remaining portion of a previous member's unexpired term plus two consecutive 4-year terms of the member's own appointment thereafter.

(3) The board shall annually elect from among its number a chairperson and vice chairperson.

(4) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board have the authority to call other meetings.

(a) A quorum is necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, constitute a quorum.

(b) The membership of committees of the board, except as otherwise authorized under this chapter, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum is necessary for any official action by the board or committee.

(c) Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board shall define unexcused absences by rule.

(5) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel must be compensated \$50 for each day in attendance at an official meeting of the board and for each day participating in any other business involving the board. The board shall adopt a rule defining the phrase "other business involving the board." However, the phrase may not routinely be defined to include telephone conference calls. A board member is also entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state requires the prior approval of the commissioner or the commissioner's designee.

(6) The department and the board may advise licensees periodically, through the publication of a newsletter, of information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the board shall publish a summary of final orders resulting in fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public.

(7)(a) Each board member is accountable to the commissioner for the proper performance of his or her duties as a member of the board. The commissioner shall investigate any legally sufficient complaint or unfavorable written report received by the commissioner or by the department or the board concerning the actions of the board or its individual members. The commissioner may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform the member's official duties, or commission of a felony.

(b) Each board member and each former board member serving on a probable cause panel is exempt from civil liability for any act or omission committed while acting in the member's official capacity. The department shall defend any member in any action against the board or a member of the board. In addition, the department may defend the member's company or business in any action against the company or business if the department determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were within the scope of the member's statutory authority. In providing such defense, the department may employ or use the legal services of the Department of Legal

Affairs or outside counsel retained pursuant to s. 287.059. Fees and costs of providing legal services under this subsection shall be paid from the General Inspection Trust Fund, subject to ss. 215.37 and 472.011.

Section 6. Section 472.0075, Florida Statutes, is created to read:

472.0075 Contacting board through department.—The board may be contacted through the headquarters of the department in the City of Tallahassee.

Section 7. Section 472.008, Florida Statutes, is amended to read:

472.008 Rules of the board.—

(1) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it. This specific grant of rulemaking authority to the board shall be exercised only through proceedings pursuant to ss. 120.536(1) and 120.54 and with the prior approval of the department.

(2) The board shall adopt rules authorizing the use of professional titles by retired surveyors and mappers. Such rules shall establish guidelines designed to avoid abuse by retirees and confusion on the part of the general public. The rules shall not require continuing education requirements in order to use a professional title by a retiree.

(3) The department has standing to challenge any rule or proposed rule of the board pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the department, may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

A presumption is not created for the existence of any of the conditions cited in this subsection if the department challenges the rule or proposed rule.

(4) The department or the board is a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging final agency action.

(5) Any proposed board rule that has not been modified to remove proposed committee objections of the Administrative Procedures Committee must receive approval from the department before filing the rule with the Department of State for final adoption. The department may repeal any rule

enacted by the board which has taken effect without having met proposed committee objections of the Administrative Procedures Committee.

Section 8. Section 472.0101, Florida Statutes, is created to read:

472.0101 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, the department shall by rule provide procedures under which exiled professionals may be examined under this chapter. A person is eligible for the examination if the exiled professional:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided the country is located in the Western Hemisphere and does not have diplomatic relations with the United States;

(b) Applies to the department and submits a fee;

(c) Was a resident of this state immediately preceding the person's application;

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university. However, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for the board.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department, for the board, shall conduct a written practical examination that tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant may not be examined by the department on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department, for the board, by rule and shall be

sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this chapter. Each applicant so licensed is subject to all provisions of this chapter.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language if any translation costs are borne by the applicant.

(6) The department, for the board, may not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter until such time as the investigation or prosecution is complete, at which time the provisions of this chapter shall apply.

Section 9. Subsections (10) through (16) are added to section 472.011, Florida Statutes, to read:

472.011 Fees.—

(10) All funds collected under this section, and the amount paid for licenses, fines, and fees, shall be deposited into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

(11) If sufficient action is not taken by the board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the board to cover anticipated costs and to maintain the required cash balance. Further, it is the legislative intent that this regulated profession not operate with a negative cash balance. The department may provide by rule for the advancement of sufficient funds if this profession is operating with a negative cash balance. Such advancement may be for a period not to exceed 2 consecutive years and shall require interest to be paid by the regulated profession. Interest shall be calculated at the current rate earned on General Inspection Trust Fund investments. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(12) The board may, by rule, assess and collect a one-time fee from each active and each voluntary inactive licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of this profession as required in this subsection.

(13) The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The Legislature shall appropriate funds from the General Inspection Trust Fund sufficient to carry out the provisions of this chapter. To the maximum extent possible,

the department shall directly charge all expenses under this chapter to the account of the regulated profession. For the purpose of this subsection, direct charge expenses shall include, but not be limited to, costs for investigations, examinations, and legal services. The department shall maintain adequate records to support its allocation of department expenses. The department shall provide the board with reasonable access to these records upon request. The board shall be provided an annual report of revenue and direct and allocated expenses related to the operation of the profession. These reports shall be used by the board to determine the amount of license fees.

(14) A condensed management report of budgets, finances, performance statistics, and recommendations shall be provided to the board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(15) If a duplicate license is required or requested by a licensee, the board may charge a fee as determined by rule not to exceed \$25 before issuing a duplicate license.

(16) The department or the board shall charge a fee not to exceed \$25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplication of a public record as provided in s. 119.07(4).

Section 10. Section 472.0131, Florida Statutes, is created to read:

472.0131 Examinations; development; administration.—

(1) The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations. The department shall consult with the board in providing such services.

(a) The department shall ensure that examinations adequately and reliably measure an applicant's ability to practice the profession of surveying and mapping. After an examination developed or approved by the department has been administered, the board or department may reject any question that does not reliably measure the general areas of competency specified in the rules of the board. The department shall use professional testing services for the development, preparation, and evaluation of examinations when such services are available and approved by the board.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board shall by rule specify the general areas of competency to be covered by the examination, the relative weight to be assigned in grading each area tested, the score necessary to achieve a passing grade, and the fees, where applicable, to cover the actual cost for any purchase, development, and administration of the required examination. However, statutory fee caps in this chapter shall apply. This subsection does not apply to national examinations approved and administered pursuant to paragraph (d).

(c) If a practical examination is deemed to be necessary, rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board may conduct such exercise. Board members may serve as examiners at a practical examination with the consent of the board.

(d) The board may approve by rule the use of any national examination which the department has certified as meeting requirements of national examinations and generally accepted testing standards under department rules. Providers of examinations, which may be profit or nonprofit entities, seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification of the vendor. The department shall use any national examination that is available, certified by the department, and approved by the board. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by the board prior to October 1, 1997, is deemed certified under this paragraph. Any licensing or certification examination that is not developed or administered by the department in-house or provided as a national examination shall be competitively bid.

(e) The department shall adopt rules regarding the security and monitoring of examinations. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 472.033 to seek fines and injunctive relief against an examinee who violates s. 472.0132 or the rules adopted under this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules.

(f) If the board concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the board. All fees paid by the user shall be applied to the department's examination and development program under this chapter.

(2) For each examination developed by the department or a contracted vendor, the board shall make rules providing for reexamination of any applicant who failed an examination. If both a written and a practical examination are given, an applicant is required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if the

applicant successfully passes that portion within a reasonable time, as determined by rule of the board, of his or her passing the other portion.

(3) Except for national examinations approved and administered pursuant to paragraph (1)(d), the department shall provide procedures for applicants who have taken and failed an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of his or her examination grades.

(4) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to paragraph (1)(d).

(5) Meetings and records of meetings of any member of the department or of the board held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are confidential and exempt from ss. 119.07(1) and 286.011. However, this exemption does not affect the right of any person to review an examination as provided in subsection (3).

(6) For examinations developed by the department, a contracted vendor or the board may provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this subsection bear the full cost for the department's development, preparation, administration, grading, and evaluation of any examination in a language other than English or Spanish. Requests for translated examinations, except for those in Spanish, must be on file in the board office at least 6 months before the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English or Spanish, the board shall consider the percentage of the population who speak the applicant's native language.

(7) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by the board to pass an examination pertaining to state laws and rules applicable to the practice of surveying and mapping.

(8) Notwithstanding any other law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board.

Section 11. Section 472.0132, Florida Statutes, is created to read:

472.0132 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 472.033, a person who wrongfully takes an examination in whole or in part or reproduces or copies an examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 12. Section 472.0135, Florida Statutes, is created to read:

472.0135 Education; substituting demonstration of competency for clock-hour requirements; accreditation; consultation.—

(1) If the board requires a student to complete a specific number of clock hours of classroom instruction for initial licensure purposes, the board shall establish the minimal competencies that such student must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution.

(2) Notwithstanding any other law, educational programs and institutions which are required by statute to be accredited, but which were accredited by an agency that has since ceased to perform an accrediting function, shall be recognized until such programs and institutions are accredited by a qualified successor to the original accrediting agency, an accrediting agency recognized by the United States Department of Education, or an accrediting agency recognized by the board.

(3) The board shall consult with the Commission for Independent Education, the Board of Governors of the State University System, and the State Board of Education prior to adopting any changes to training requirements relating to entry into the profession. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 13. Section 472.015, Florida Statutes, is amended to read:

472.015 Licensure.—

(1) Notwithstanding any other law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal. Such documents may contain information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, continuing education requirements, and ongoing education monitoring. The application

may be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department.

(2)(4) The department shall license any applicant who the board certifies is qualified to practice surveying and mapping.

(3) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the board. Upon receipt of the appropriate license fee, except as provided in subsection (6), the department shall issue a license to any person certified by the board, or its designee, as having met the applicable requirements imposed by law or rule. However, an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on a required examination.

(4)(2) The board shall certify for licensure any applicant who satisfies the requirements of s. 472.013 and who has passed the licensing examination. The board may refuse to certify any applicant who has violated any of the provisions of s. 472.031.

(5)(3)(a) The board shall certify as qualified for a license by endorsement an applicant who:

1. Holds a valid license to practice surveying and mapping issued prior to July 1, 1999, by another state or territory of the United States; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 472.013; and has a specific experience record of at least 8 years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, 6 years of which must be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed;

2. Holds a valid license to practice surveying and mapping issued by another state or territory of the United States if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in Florida at the time the license was issued; or

3. Is a practicing photogrammetrist who holds the Certified Photogrammetrist designation of the American Society for Photogrammetry and Remote Sensing and held such designation on or before July 1, 2005; is a graduate of a 4-year course of study at an accredited college or university; and has a specific experience record of 6 or more years as a subordinate to a Certified Photogrammetrist of the American Society for Photogrammetry and Remote Sensing in the active practice of surveying and mapping, 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The course of study must have included not fewer than 32 semester hours of study or its academic equivalent. The applicant must have completed a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, pho-

togrammetry, forestry, or land law and the physical sciences. Any of the required 25 semester hours of study completed not as a part of the 4-year course of study shall be approved at the discretion of the board. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge. The applicant must have applied to the department for licensure on or before July 1, 2007.

(b) All applicants for licensure by endorsement must pass the Florida law and rules portion of the examination prior to licensure.

(6)(a) The board may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter until such time as the investigation or prosecution is complete.

(b)(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of ss. 472.001-472.037 or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

(7) When any administrative law judge conducts a hearing pursuant to chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the board, which shall thereupon issue a final order. The applicant for a license may appeal the final order of the board in accordance with the provisions of chapter 120.

(8) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(9) Notwithstanding anything to the contrary, any elected official who is licensed under this chapter may hold employment for compensation with any public agency concurrent with such public service. Such dual service must be disclosed according to any disclosure required by applicable law.

(10) In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day that is not a Saturday, Sunday, or legal holiday.

(11) Any submission required to be in writing may otherwise be required by the department to be made by electronic means.

(12)(5) A licensee or business entity that meets the requirements of this section or s. 472.021 must carry professional liability insurance or provide notice to any person or entity to which surveying and mapping services are offered that the licensee or business entity does not carry professional liability insurance. The notice must consist of a sign prominently displayed in the

reception area and written statements provided in a form and frequency as required by rule of the Board of Professional Surveyors and Mappers.

~~(13)~~(6) The department may revoke the license of a licensee or business entity that fails to pay a final judgment in connection with the provision of, or failure to provide, services under this chapter.

(14) A person may not be disqualified from practicing surveying or mapping as regulated by the state solely because he or she is not a United States citizen.

Section 14. Section 472.016, Florida Statutes, is created to read:

472.016 Members of Armed Forces in good standing with the board.—

(1) Any member of the Armed Forces of the United States who is now or in the future on active duty and who, at the time of becoming such a member of the Armed Forces, was in good standing with the board and entitled to practice or engage in surveying and mapping in the state shall be kept in good standing by the board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty, provided that he or she is not engaged the practice of surveying or mapping in the private sector for profit.

(2) The board shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

Section 15. Section 472.0165, Florida Statutes, is created to read:

472.0165 Qualification of immigrants for examination to practice a licensed profession or occupation.—

(1) It is the declared purpose of this section to encourage the use of foreign-speaking residents of this state duly qualified to become licensed surveyors and mappers so that all Florida citizens may receive better services.

(2) Any person who has successfully completed, or is currently enrolled in, an approved course of study created pursuant to chapters 74-105 and 75-177, Laws of Florida, shall be deemed qualified for an examination or reexamination for a license which shall be administered in the English language unless 15 or more such applicants request that the reexamination be administered in their native language. If a reexamination is administered in a foreign language, the full cost to the board of preparing and administering the examination must be borne by the applicants.

(3) The board shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba and who, on July 1, 1977, were residents of this state.

Section 16. Section 472.018, Florida Statutes, is amended to read:

472.018 Continuing education.—The department may not renew a license until the licensee submits proof satisfactory to the board that during the 2 years prior to her or his application for renewal the licensee has completed at least 24 hours of continuing education. ~~Criteria and course content shall be approved by the board by rule.~~

(1) The board shall adopt rules to establish the criteria and course content for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department when there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for the administration of continuing education requirements adopted by the boards or the department when there is no board.

(2) The board may provide by rule that distance learning may be used to satisfy continuing education requirements.

(3) The board may prorate the required continuing education hours in the following circumstances:

(a) For new licensees:

1. By requiring half of the required continuing education hours for any applicant who becomes licensed with more than half the renewal period remaining and no continuing education for any applicant who becomes licensed with half or less than half of the renewal period remaining; or

2. Requiring no continuing education hours until the first full renewal cycle of the licensee.

(b) When the number of hours required is increased by law or the board.

(4) Upon the request of a licensee, the provider must also furnish to the department information regarding courses completed by the licensee, in an electronic format required by rule of the department.

(5) Each continuing education provider shall retain all records relating to a licensee's completion of continuing education courses for at least 4 years after completion of a course.

(6) A continuing education provider may not be approved, and the approval may not be renewed, unless the provider agrees in writing to provide such cooperation under this section as required by the department.

(7) For the purpose of determining which persons or entities must meet the reporting, recordkeeping, and access provisions of this section, the board by rule shall adopt a definition of the term “continuing education provider” applicable to the profession’s continuing education requirements. The intent of the rule is to ensure that all records and information necessary to carry out the requirements of this section are maintained and transmitted accordingly and to minimize disputes as to what person or entity is responsible for maintaining and reporting such records and information.

(8) The board shall approve the providers of continuing education. The approval of continuing education providers and courses must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect under this chapter or the rules adopted under this chapter.

(9) The department may fine, suspend, or revoke approval of any continuing education provider that fails to comply with its duties under this section. The fine may not exceed \$500 per violation. Investigations and prosecutions of a provider’s failure to comply with its duties under this section shall be conducted pursuant to s. 472.033.

(10) The board shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and fining, suspending, or revoking any approval of the provider previously granted by the board if the board determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material. The fine may not exceed \$500 per violation. Investigations and prosecutions of a provider’s failure to comply with its duties under this section shall be conducted under s. 472.033.

(11) The board may establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of providership of such courses. Such postlicensure education courses are subject to the reporting, monitoring, and compliance provisions of this section.

(12) The department and the board may adopt rules under ss. 120.536(1) and 120.54 to administer this section.

Section 17. Section 472.0201, Florida Statutes, is created to read:

472.0201 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the department, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain

exempt or confidential pursuant to applicable law while in the custody of the department.

(2) The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the administrative law judge.

(3) Unless an applicant notifies the department at least 5 days before an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

Section 18. Section 472.02011, Florida Statutes, is created to read:

472.02011 Disclosure of confidential information.—

(1) An officer, employee, or person under contract with the department or the board, or any subject of an investigation may not convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 472.033, and, if applicable, shall be removed from office, employment, or the contractual relationship.

Section 19. Section 472.0202, Florida Statutes, is created to read:

472.0202 Inactive and delinquent status.—

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 472.033, and the board may impose discipline on the licensee.

(2) The board shall permit a licensee to choose, at the time of licensure renewal, an active or inactive status. However, a licensee who changes from inactive to active status is not eligible to return to inactive status until the licensee thereafter completes a licensure cycle on active status.

(3) The board, by rule, shall impose a fee for an inactive status license which is no greater than the fee for an active status license.

(4) An inactive status licensee may change to active status at any time, provided the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board, and meets all continuing education requirements as specified in this section.

(5) A licensee shall apply with a complete application, as defined by rule of the board, to renew an active or inactive status license before the license expires. Failure of a licensee to renew before the license expires shall cause the license to become delinquent in the license cycle following expiration.

(6)(a) A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department.

(b) Notwithstanding this chapter, the board may, at its discretion, reinstate the license of an individual whose license has become void if the board determines that the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual must apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an applicable fee in an amount determined by rule. The board shall require that such individual meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

(7) The board, by rule, shall impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent status licensee when such licensee applies for active or inactive status.

(8) The board, by rule, shall impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) The board, by rule, may impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Before reactivation, an inactive or delinquent licensee shall meet the same continuing education requirements, if any, imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

(11) The status or a change in status of a licensee does not alter the board's right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

Section 20. Section 472.0203, Florida Statutes, is created to read:

472.0203 Renewal and cancellation notices.—

(1) At least 90 days before the end of a licensure cycle, the department shall:

(a) Forward a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record with the department.

(b) Forward a notice of pending cancellation of licensure to a delinquent status licensee at the licensee's last known address of record with the department.

(2) Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board.

Section 21. Section 472.0204, Florida Statutes, is created to read:

472.0204 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board.

(2) Notwithstanding any other provision of law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required pursuant to s. 472.033.

Section 22. Section 472.033, Florida Statutes, is amended to read:

472.033 Disciplinary proceedings.—Disciplinary proceedings for the board shall be within the jurisdiction of the department.

(1)(a) The department shall investigate any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter or of any rule adopted by the department or the board has occurred. In order to determine legal sufficiency, the

department may require supporting information or documentation. The department may investigate, and the department or the board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of the board.

(b) If an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the commissioner, or the commissioner's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel before dismissing any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed before a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case before dismissing the case.

(3)(a) As an alternative to subsections (1) and (2), if a complaint is received, the department may provide a licensee with a notice of noncompli-

ance for an initial offense of a minor violation. A violation is a minor violation if it does not demonstrate a serious inability to practice the profession, result in economic or physical harm to a person, or adversely affect the public health, safety, or welfare or create a significant threat of such harm. The board shall establish by rule those violations which are minor violations under this provision. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(b) The department may issue a notice of noncompliance for an initial offense of a minor violation, notwithstanding the board's failure to designate a particular minor violation by rule as provided in paragraph (a).

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. The board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. The board may provide by rule for multiple probable cause panels composed of at least two members. The board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The commissioner or the commissioner's designee may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a

formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to the board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department.

(7) The department has standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the commissioner or the commissioner's designee, who shall issue the final summary order.

(9) The department shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. However, this exemption does not apply to actions against unlicensed persons pursuant to s. 472.036. Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. The subject may file a written response to the information contained in the

investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

~~(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:~~

~~(a) Violation of any provision of s. 472.031 or s. 455.227(1);~~

~~(b) Attempting to procure a license to practice surveying and mapping by bribery or fraudulent misrepresentations;~~

~~(c) Having a license to practice surveying and mapping revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country;~~

~~(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of surveying and mapping or the ability to practice surveying and mapping;~~

~~(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the capacity of a registered surveyor and mapper;~~

~~(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;~~

~~(g) Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of surveying and mapping;~~

~~(h) Failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper; violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing; or failing to comply with a lawfully issued subpoena of the department; or~~

~~(i) Practicing on a revoked, suspended, inactive, or delinquent license.~~

~~(2) When the board finds any surveyor and mapper guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

- (b) ~~Revocation or suspension of a license.~~
- (c) ~~Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.~~
- (d) ~~Issuance of a reprimand.~~
- (e) ~~Placement of the surveyor and mapper on probation for a period of time and subject to such conditions as the board may specify.~~
- (f) ~~Restriction of the authorized scope of practice by the surveyor and mapper.~~
- (3) ~~The department shall reissue the license of a disciplined surveyor and mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.~~

Section 23. Section 472.0335, Florida Statutes, is created to read:

472.0335 Classification of disciplinary actions.—

(1) A licensee may petition the department to review a disciplinary incident to determine whether the specific violation meets the standard of a minor violation as set forth in s. 472.033(3). If the circumstances of the violation meet that standard and 2 years have passed since the issuance of a final order imposing discipline, the department shall reclassify that violation as inactive if the licensee has not been disciplined for any subsequent minor violation of the same nature. After the department has reclassified the violation as inactive, it is no longer considered to be part of the licensee's disciplinary record, and the licensee may lawfully deny or fail to acknowledge the incident as a disciplinary action.

(2) The department may establish a schedule classifying violations according to the severity of the violation. After the expiration of set periods of time, the department may provide for such disciplinary records to become inactive, according to their classification. After the disciplinary record has become inactive, the department may clear the violation from the disciplinary record and the subject person or business may lawfully deny or fail to acknowledge such disciplinary actions. The department may adopt rules to administer this subsection.

Section 24. Section 472.034, Florida Statutes, is created to read:

472.034 Mediation.—

(1) Notwithstanding s. 472.033, the board shall adopt rules to designate which violations of this chapter are appropriate for mediation. The board may designate as mediation offenses those complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee.

(2) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a

resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator's notification to the department. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. 472.033.

(3) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. 472.033. Further, any information relating to the mediation of a case shall be subject to the confidentiality provisions of s. 472.033.

(4) A licensee may not go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. The decision is not final agency action for purposes of chapter 120.

(5) The board has the continuing authority to amend its rules adopted pursuant to this section.

Section 25. Section 472.0345, Florida Statutes, is created to read:

472.0345 Authority to issue citations.—

(1) Notwithstanding s. 472.033, the board or the department shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 472.033. If the subject disputes the matter in the citation, the procedures set forth in s. 472.033 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) The board has continuous authority to amend its rules adopted pursuant to this section.

Section 26. Section 472.0351, Florida Statutes, is created to read:

472.0351 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Violation of any provision of s. 472.031;

(b) Attempting to procure a license to practice surveying and mapping by bribery or fraudulent misrepresentations;

(c) Having a license to practice surveying and mapping revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country;

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of surveying and mapping or the ability to practice surveying and mapping;

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the capacity of a registered surveyor and mapper;

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;

(g) Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of surveying and mapping;

(h) Failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper; violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing; or failing to comply with a lawfully issued subpoena of the department;

(i) Practicing on a revoked, suspended, inactive, or delinquent license;

(j) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession;

(k) Intentionally violating any rule adopted by the board or the department, as appropriate;

(l) Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agen-

cies or subdivisions, for a violation that would constitute a violation under Florida law;

(m) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee;

(n) Failing to report to the department any person who the licensee knows is in violation of this chapter or the rules of the department or the board;

(o) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice surveying and mapping contrary to this chapter or the rules of the department or the board;

(p) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession;

(q) Exercising influence on the client for the purpose of financial gain of the licensee or a third party;

(r) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform;

(s) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them;

(t) Violating this chapter, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department; or

(u) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(2) When the board finds any surveyor or mapper guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the surveyor or mapper on probation for a period of time and subject to such conditions as the board may specify. Those conditions

may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(f) Restriction of the authorized scope of practice by the surveyor or mapper.

(3) The department shall reissue the license of a disciplined surveyor or mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

(4)(a) In addition to any other discipline imposed pursuant to this section, the board may assess costs and attorneys fees related to the investigation and prosecution of the case.

(b) In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(6) If the board determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish, by rule, requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but shall not be limited to, satisfying current requirements for an initial license.

Section 27. Section 472.0355, Florida Statutes, is created to read:

472.0355 Disciplinary guidelines.—

(1) The board by rule shall adopt and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board pursuant to this chapter and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 28. Section 472.036, Florida Statutes, is created to read:

472.036 Unlicensed practice of professional surveying and mapping; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.—

(1) When the department has probable cause to believe that any person not licensed by the department or the board has violated any provision of this chapter, or any rule adopted pursuant this chapter, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of surveying and mapping by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than \$500 and no more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation.

(3)(a) Notwithstanding the provisions of s. 472.033, the department shall adopt rules to permit the issuance of citations for unlicensed practice of a profession. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be

necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 472.033. If the subject disputes the matter in the citation, the procedures set forth in s. 472.033 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department upon filing with the agency clerk. The penalty shall be a fine of not less than \$500 or more than \$5,000 or other conditions as established by rule.

(b) Each day that the unlicensed practice continues after issuance of a citation constitutes a separate violation.

(c) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to department rule as part of the penalty levied pursuant to the citation.

(d) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(4) All fines, fees, and costs collected through the procedures set forth in this section shall be deposited in the General Inspection Trust Fund.

(5) The provisions of this section apply only to the provisions of this chapter.

Section 29. Section 472.0365, Florida Statutes, is created to read:

472.0365 Unlicensed activities; fees; disposition.—In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for professional surveying and mapping activities is a state priority. All enforcement costs under this chapter should be covered by the profession. Therefore, the department shall impose, upon initial licensure and each renewal thereof, a special fee of \$5 per licensee. Such fee shall be in addition to all other fees collected from each licensee and shall fund efforts to combat unlicensed activity. The board with concurrence of the department may earmark \$5 of the current licensure fee for this purpose, if the board is not in a deficit and has a reasonable cash balance. The board with the concurrence of the department may authorize the transfer of funds from the operating fund account to the unlicensed activity account if the operating fund account is not in a deficit and has a reasonable cash balance. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 472.011. For the unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the board and the department, be transferred to the operating fund account of the profession.

Section 30. The following provisions are adopted to minimize any interruption of service or function which may result from implementing the type two transfer provided in this act:

(1) The Department of Agriculture and Consumer Services and Department of Business and Professional Regulation shall cooperate fully to complete this type two transfer not later than October 1, 2009.

(2) The Department of Business and Professional Regulation shall transfer to the Department of Agriculture and Consumer Services the unexpended balances of appropriations, allocations, and all other funds applicable to the licensing and regulation of Professional Surveyors and Mappers outstanding as of October 1, 2009.

(3) This type two transfer will require a full transfer of all data and processing information necessary for complete operation of the licensing and regulatory program under chapter 472, Florida Statutes, from the data processing system operated by the Department of Business and Professional Regulation to the data processing system operated by the Department of Agriculture and Consumer Services. This transfer must be completed without loss of relevant data or functionality required for the program. In the event this necessary transfer of data processing functionality cannot be completed before October 1, 2009, the Department of Agriculture and Consumer Services may continue operating some or all data processing functions required under chapter 472, Florida Statutes, through the data processing system operated by the Department of Business and Professional Regulation. For this continued use of its data processing system, the Department of Business and Professional Regulation shall be reimbursed by the Department of Agriculture and Consumer Services at the rate of \$2,000 per month; the monthly fee shall be prorated by day for each partial month of continued use. This authority for use and compensation shall terminate upon the complete transfer of all data processing functions to the separate data processing system operated by the Department of Agriculture and Consumer Services.

(4) The transfer of regulatory authority under chapter 472, Florida Statutes, provided by this act shall not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on the day before October 1, 2009, to which action the Board of Professional Surveyors and Mappers, or the Department of Business and Professional Regulation in relation to the Board of Professional Surveyors and Mappers, are at that time parties, and the Board of Professional Surveyors and Mappers or the Department of Agriculture and Consumer Services, as appropriate, shall be substituted as a party in interest in any such action.

(5) All lawful orders issued by the Board of Professional Surveyors and Mappers, or by the Department of Business and Professional Regulation, implementing or enforcing or otherwise in regard to any provision of chapter 472, Florida Statutes, issued prior to October 1, 2009, shall remain in effect and be enforceable after October 1, 2009, unless thereafter modified in accordance with law.

(6) The rules of the Board of Professional Surveyors and Mappers and of the Department of Business and Professional Regulation relating to the Board of Professional Surveyors and Mappers or implementation of chapter 472, Florida Statutes, which were in effect at 11:59 p.m. on the day prior to

October 1, 2009, shall become rules of the Department of Agriculture and Consumer Services and the Board of Professional Surveyors and Mappers and shall remain in effect until amended or repealed in the manner provided by law.

(7)(a) Notwithstanding the transfer of regulatory authority over chapter 472, Florida Statutes, provided by this act, persons and entities holding in good standing any license under chapter 472, Florida Statutes, as of 11:59 p.m. on the day prior to October 1, 2009, shall be deemed to hold in good standing a license in the same capacity under chapter 472, Florida Statutes, as of October 1, 2009.

(b) Notwithstanding the transfer of regulatory authority over chapter 472, Florida Statutes, provided by this act, persons and entities holding in good standing any registration under chapter 472, Florida Statutes, as of 11:59 p.m. on the day prior to October 1, 2009, shall as of October 1, 2009, be deemed to be licensed in the same capacity in which they were formerly registered, and their registration shall thereafter be deemed a license for purposes of chapter 472, Florida Statutes.

(8) No later than July 1, 2009, the Department of Agriculture and Consumer Services and the Department of Business and Professional Regulation shall cooperate in making available all personnel and information necessary for a prompt and complete transition of pending disciplinary matters, including coordinating meetings of attorneys and investigators.

(9) The Department of Agriculture and Consumer Services may contract with the Department of Business and Professional Regulation for the development, preparation, administration, scoring, score reporting, and evaluation of examinations currently scheduled to be conducted after October 1, 2009. Any such contract shall be entered into only with the prior advice and approval of the Board of Professional Surveyors and Mappers and shall become effective on or after October 1, 2009. The Department of Agriculture and Consumer Services and the Department of Business and Professional Regulation shall confer promptly with the board to determine at the earliest possible time the need for the services described in this subsection.

Section 31. Subsection (3) of section 482.2401, Florida Statutes, is amended to read:

482.2401 Disposition and use of revenues from fees and fines.—

(3) The department may use All revenues from administrative fines shall be used to support contract research or education in pest control. If revenues are available to support such research or education, the department shall appoint a committee composed of pest control industry members which shall assist the department in establishing research or education priorities, in developing requests for proposals for bids, and in selecting research or education contractors from qualified bidders.

Section 32. Effective upon this act becoming a law and retroactive to January 1, 2009, subsections (1) and (2) of section 487.041, Florida Statutes,

as amended by section 14 of chapter 2009-20, Laws of Florida, are amended to read:

487.041 Registration.—

(1)(a) Effective January 1, 2009, each brand of pesticide, as defined in s. 487.021, which is distributed, sold, or offered for sale, except as provided in this section, within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered in the office of the department, and such registration shall be renewed biennially. Emergency exemptions from registration may be authorized in accordance with the rules of the department. The registrant shall file with the department a statement including:

1. The name, business mailing address, and street address of the registrant.
2. The name of the brand of pesticide.
3. An ingredient statement and a complete copy of the labeling accompanying the brand of the pesticide, which must conform to the registration, and a statement of all claims to be made for it, including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each “added ingredient.”

(b) Effective January 1, 2009, for the purpose of defraying expenses of the department in connection with carrying out the provisions of this part, each registrant person shall pay a biennial registration fee for each registered brand of pesticide. The registration of each brand of pesticide shall cover a designated 2-year period beginning on January 1 of each odd-numbered year and expiring on December 31 of the following year.

(c) Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a fee of \$700 per brand of pesticide and a fee of \$200 for each special local need label and experimental use permit, and the registration shall expire on December 31 of the following year. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a fee of \$350 per brand of pesticide and fee of \$100 for each special local need label and experimental use permit, and the registration shall expire on December 31 of that year.

(d)1. Effective January 1, 2009, in addition to the fees assessed pursuant to paragraphs (b) and (c), for the purpose of defraying the expenses of the department for testing pesticides for food safety, each registrant shall pay a supplemental biennial registration fee for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit in 40 C.F.R. part 180. The department shall biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental registration fee.

2. Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a supplemental registration fee of \$630 per brand of pesticide that is subject to the fee pursuant to subparagraph 1. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a supplemental registration fee of \$315 per brand of pesticide that is subject to the fee pursuant to subparagraph 1. The department shall retroactively assess the supplemental registration fee for each brand of pesticide that registered on or after January 1, 2009, and that is subject to the fee pursuant to subparagraph 1.

(e)(d) All revenues collected, less those costs determined by the department to be nonrecurring or one-time costs, shall be deferred over the 2-year registration period, deposited in the General Inspection Trust Fund, and used by the department in carrying out the provisions of this chapter. Revenues collected from the supplemental registration fee may also be used by the department for testing pesticides for food safety.

(f)(e) If the renewal of a brand of pesticide, including the special local need label and experimental use permit, is not filed by January 31 of the renewal year, an additional fee of \$25 per brand of pesticide shall be assessed per month and added to the original fee. This additional fee may not exceed \$250 per brand of pesticide. The additional fee must be paid by the registrant before the renewal certificate for the registration of the brand of pesticide is issued. The additional fee shall be deposited into the General Inspection Trust Fund.

(g)(f) This subsection does not apply to distributors or retail dealers selling brands of pesticide if such brands of pesticide are registered by another person.

(2) The department shall adopt rules governing the procedures for the registration of a brand of pesticide, ~~and for the review of data submitted by an applicant for registration of the brand of pesticide, and for biennially publishing the list of active ingredients for which a brand of pesticide is subject to the supplemental registration fee pursuant to subparagraph (1)(d)1.~~ The department shall determine whether the brand of pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine whether each request for registration of a brand of pesticide meets the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this part, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department may review and evaluate a registered pesticide if new information is made available that indicates that use of the pesticide has caused an unreasonable adverse effect on public health or the environment. Such review shall be conducted upon the request of the State Surgeon General in the event of an unreasonable adverse effect on public health or the Secretary of Environmental Protection in the event of an unreasonable adverse effect on the environment. Such review may result in modifications, revocation, cancellation, or suspension

of the registration of a brand of pesticide. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of the brand of any pesticide after notice to the applicant or registrant giving the reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. The registration of a brand of pesticide may not be construed as a defense for the commission of any offense prohibited under this part.

Section 33. Section 531.60, Florida Statutes, is created to read:

531.60 Permit for commercially operated or tested weights or measures instrument or devices.—

(1) A weights and measures instrument or device may not operate or be used for commercial purposes, as defined by department rule, within this state without a valid commercial use permit issued by the department, unless exempted as provided in s. 531.61. Such permit applies only to the specific instrument or device for which the permit was issued. However, the department may allow such permit to be applicable to a replacement for the original instrument or device.

(2) If ownership of an instrument or device for which a permit has been issued changes and the instrument or device:

(a) Remains in the same location, the permit transfers to the new owner and remains in effect until its original expiration date. Within 30 days after the change in ownership, the new owner shall notify the department of the change and provide the pertinent information regarding the change in ownership and an updated replacement permit shall be issued if needed.

(b) Moves to a new location, the permit automatically expires and a new permit must be issued which will expire 1 year following the date of issuance.

(3) Weights and measures instruments or devices that are not used commercially may be tested by the department under this chapter only if they are permitted and appropriate fees paid as prescribed by this section and adopted rules.

Section 34. Section 531.61, Florida Statutes, is created to read:

531.61 Exemptions from permit requirement.—Commercial weights or measures instruments or devices are exempt from the permit requirements of ss. 531.60-531.66 if:

(1) The device is a taximeter that is licensed, permitted, or registered by a municipality, county, or other local government and is tested for accuracy and compliance with state standards by the local government in cooperation with the state as authorized in s. 531.421.

(2) The device is used exclusively for weighing railroad cars and is tested for accuracy and compliance with state standards by a private testing agency.

(3) The device is used exclusively for measuring petroleum products taxed under s. 525.09.

Section 35. Section 531.62, Florida Statutes, is created to read:

531.62 Permit application and renewal.—

(1) An application for a weights and measures commercial use permit shall be submitted to the department on a form prescribed and furnished by the department and must contain such information as the department may require by rule.

(2) The application must be accompanied by a fee in an amount determined by department rule. However, the fee for each instrument or device may not exceed the maximum limits set forth in s. 531.63.

(3) The department shall issue a permit and such other identification tags or stickers as necessary to provide evidence of compliance with ss. 531.60-531.66.

(4) A permit expires 1 year following its date of issue and must be renewed annually. If an application for renewal is not received by the department within 30 days after its due date, a late fee of up to \$100 must be paid in addition to the annual commercial use permit fee.

(5) All permit fees shall be deposited into the General Inspection Trust Fund and used to carry out and enforce the provisions of this chapter relating to testing, inspection, licensing, and regulation of commercial weights and measures instruments or devices and practices in the state.

Section 36. Section 531.63, Florida Statutes, is created to read:

531.63 Maximum permit fees.—The commercial use permit fees established for weights or measures instruments or devices shall be in an amount necessary to administer this chapter but may not exceed the amounts provided in this section.

(1) For weighing devices, the fees must be based on the manufacturer's rated capacity or the device's design and use and whether measuring by inch or pounds or the metric equivalent:

(a) For weighing devices of up to and including the 100-pound capacity which are used during any portion of the period covered by the permit, the maximum annual fees per retail establishment may not exceed the following:

<u>Number of devices in a single retail establishment</u>	<u>Maximum Fee</u>
<u>1 to 5</u>	<u>\$60</u>
<u>6 to 10</u>	<u>\$150</u>

<u>11 to 30</u>	<u>\$200</u>
<u>More than 30</u>	<u>\$300</u>

(b) For weighing devices of greater than the 100-pound capacity, the maximum annual registration fees may not exceed the following amounts per device:

<u>Manufacturer's rated capacity</u>	<u>Maximum Fee Per Device</u>
<u>100-5,000 pounds</u>	<u>\$200</u>
<u>5,000-20,000 pounds</u>	<u>\$300</u>
<u>20,000 pounds or more</u>	<u>\$400</u>
<u>Wheel load weighers</u>	<u>\$35</u>
<u>Static railroad track scales</u>	<u>\$1,000</u>
<u>Belt-conveyor scales</u>	<u>\$500</u>
<u>In-motion railroad track scales</u>	<u>\$1,000</u>

(2) For other measuring devices, the annual permit fees per device may not exceed the following:

(a) Mass flow meters having a maximum flow rate of up to 150 pounds per minute \$100.

(b) Mass flow meters having a maximum flow rate greater than 150 pounds per minute \$500.

(c) Volumetric flow meters having a maximum flow rate of up to 20 gallons per minute \$50.

(d) Volumetric flow meters having a maximum flow rate greater than 20 gallons per minute \$100.

(e) Tanks, under 500 gallons capacity, used as measure containers, with or without gage rods or markers \$100.

(f) Tanks, 500 or more gallons capacity, used as measure containers, with or without gage rods or markers \$200.

(g) Taximeters \$50.

(h) Grain moisture meters \$25.

(i) Multiple-dimension measuring devices \$100.

(3) The owner or person in possession of a weight or measures instrument or device for which the permit fees have not been paid in accordance with this section may not use such instrument or device for commercial purposes.

Section 37. Section 531.64, Florida Statutes, is created to read:

531.64 Suspension and revocation of permits.—Any permit issued under s. 531.62 may be suspended or revoked by the department if the devices or instruments for which the permit is issued are operated or used contrary to this chapter or adopted rules.

Section 38. Section 531.65, Florida Statutes, is created to read:

531.65 Unauthorized use; penalties.—If a weights or measures instrument or device is used commercially without a valid commercial use permit, the department may:

(1) Prohibit the further commercial use of the unpermitted instrument or device until the proper permit has been issued;

(2) Employ and attach to the instrument or device such form, notice, tag, or seal to prevent the continued unauthorized use of the instrument or device;

(3) In addition to the permit fees prescribed by rule for the commercial use of a weights and measures instrument or device, assess the late fee authorized under s. 531.62; or

(4) Impose penalties as prescribed in s. 531.50 in addition to the payment of appropriate permit fees for the commercial use of a weights and measures instrument or device.

Section 39. Section 531.66, Florida Statutes, is created to read:

531.66 Forms; rules.—

(1) The department shall prescribe such forms, permits, certificates, and identification tags or stickers it considers necessary to carry out the permitting provisions of ss. 531.60-531.66.

(2) The department shall adopt rules necessary to administer ss. 531.60-531.66.

Section 40. Sections 531.60, 531.61, 531.62, 531.63, 531.64, 531.65, and 531.66, Florida Statutes, as created by this act, shall expire July 1, 2014.

Section 41. Paragraph (a) of subsection (2) of section 576.021, Florida Statutes, is amended to read:

576.021 Registration and licensing.—

(2)(a) A person may not distribute a specialty fertilizer in this state until it is registered with the department by the licensee whose name appears on the label. An application for registration of each grade of specialty fertilizer shall be made on a form furnished by the department and shall be accompanied by an annual fee of \$100 for each specialty fertilizer that is registered for the first five registrations for each grade of each brand. If more than five grades of specialty fertilizer are to be registered by a licensee, the registra-

tion fee for the sixth grade registered and for each subsequent grade registered shall be \$25 for each grade of each brand. All specialty fertilizer registrations expire June 30 each year. All licensing and registration fees paid to the department under this section shall be deposited into the State Treasury to be placed in the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.

Section 42. Paragraph (a) of subsection (2) of section 576.045, Florida Statutes, is amended to read:

576.045 Nitrogen and phosphorus; findings and intent; fees; purpose; best-management practices; waiver of liability; compliance; rules; exclusions; expiration.—

(2) FEES.—

(a) In addition to the fees imposed under ss. 576.021 and 576.041, the following supplemental fees shall be collected and paid by licensees for the sole purpose of implementing this section:

- 1. One hundred dollars for each license to distribute fertilizer.
- 2. One hundred dollars for each of the first five specialty fertilizer registrations and \$25 for each registration after the first five.
- 3. Fifty cents per ton for all fertilizer that contains nitrogen or phosphorus and that is sold in this state.

Section 43. Subsection (1) of section 578.08, Florida Statutes, is amended to read:

578.08 Registrations.—

(1) Every person, except as provided in subsection (4) and s. 578.14, before selling, distributing for sale, offering for sale, exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed or mixture thereof, shall first register with the department as a seed dealer. The application for registration shall include the name and location of each place of business at which the seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale. The application for registration shall be accompanied by an annual registration fee for each such place of business based on the gross receipts from the sale of such seed for the last preceding license year as follows:

- (a)1. Receipts less than \$2,500.01, fee of \$100 ~~\$50~~
- 2. Receipts more than \$2,500 and less than \$5,000.01, fee of \$200 ~~\$100~~
- 3. Receipts more than \$5,000 and less than \$10,000.01, fee of \$350 ~~\$175~~
- 4. Receipts more than \$10,000 and less than \$20,000.01, fee of \$800 ~~\$400~~

5. Receipts more than \$20,000 and less than \$40,000.01, fee of	<u>\$1,000</u>	\$500
6. Receipts more than \$40,000 and less than \$70,000.01, fee of	<u>\$1,200</u>	\$600
7. Receipts more than \$70,000 and less than \$150,000.01, fee of	<u>\$1,600</u>	\$800
8. Receipts more than \$150,000 and less than \$400,000.01, fee of	<u>\$2,400</u>	\$1,200
9. Receipts more than \$400,000, fee of	<u>\$4,600</u>	\$2,300

(b) For places of business not previously in operation, the fee shall be based on anticipated receipts for the first license year.

Section 44. Subsection (2) of section 589.08, Florida Statutes, is amended to read:

589.08 Land acquisition restrictions.—

(2) The division may receive, hold the custody of, and exercise the control of any lands, and set aside into a separate, distinct and inviolable fund, any ~~the proceeds which may be~~ derived from the sales of the products of such lands, the use thereof in any manner, or the sale of such lands save the 25 percent of the proceeds thereof to be paid into the State School Fund as provided by law. The division may use and apply such funds for the acquisition, use, custody, management, development, or improvement of any lands vested in or subject to the control of the ~~such~~ division. After full payment has been made for the purchase of a state forest, to the Federal Government or other grantor, ~~then~~ 15 percent of the gross receipts from a state forest shall be paid to the fiscally constrained county or counties, as described in s. 218.67(1), in which it is located in proportion to the acreage located in each county for use by the county or counties for school purposes.

Section 45. Section 589.081, Florida Statutes, is amended to read:

589.081 Withlacoochee State Forest and Goethe State Forest; payment ~~to counties~~ of portion of gross receipts.—The Division of Forestry shall pay 15 percent of the gross receipts from Withlacoochee State Forest and the Goethe State Forest to each fiscally constrained county, as described in s. 218.67(1), in which a portion of the respective forest is located in proportion to the forest acreage located in such ~~each~~ county. The funds must be equally divided between the board of county commissioners and the school board of each fiscally constrained county.

Section 46. This act shall take effect July 1, 2009, except that sections 1 through 30 of this act shall take effect October 1, 2009.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.