

CHAPTER 2014-147

Committee Substitute for Committee Substitute for House Bill No. 7051

An act relating to the Department of Agriculture and Consumer Services; amending s. 472.027, F.S.; directing the Board of Professional Surveyors and Mappers to adopt rules establishing specified standards of practice; amending s. 493.6108, F.S.; revising conditions relating to the examination of fingerprint records for private investigative, security, and repossession service licenses; amending s. 493.6113, F.S.; providing conditions for renewal of certain firearm licenses; amending s. 493.6115, F.S.; authorizing certain firearms licensees to carry specified handguns; amending s. 493.6305, F.S.; providing conditions under which certain licensees are authorized to carry concealed firearms; amending s. 501.016, F.S.; providing for consumer claims against certain bonds posted by health studios; amending s. 501.059, F.S.; prohibiting telephone solicitation of certain donors; repealing s. 501.143, F.S., relating to the Dance Studio Act; amending s. 501.603, F.S.; defining the term “novelty payment”; amending s. 501.611, F.S.; providing for consumer claims against certain bonds posted by commercial telephone sellers; amending s. 501.616, F.S.; prohibiting commercial telephone sellers from accepting specified payments; amending s. 501.913, F.S.; providing for expiration of antifreeze registration certificates; amending s. 525.16, F.S.; revising administrative fine provisions for gasoline and oil proprietors; creating s. 526.015, F.S.; prohibiting the sale and distribution of certain lubricating oil; amending s. 526.50, F.S.; deleting the definition of the term “permit year”; amending s. 526.51, F.S.; revising provisions for issuance and renewal of permits to sell brake fluid; amending s. 539.001, F.S.; providing for consumer claims against certain bonds posted by pawnbroking licensees; revising administrative fine and civil penalty provisions for pawnbroker licensees; amending s. 559.929, F.S.; providing for consumer claims against certain bonds posted by sellers of travel; amending s. 943.059, F.S.; requiring the subject of a sealed criminal history record to provide such information when applying for a concealed weapon or concealed firearm permit; providing applicability; amending ss. 205.1969, 472.025, 501.015, 627.7842, and 718.104, F.S.; conforming provisions to changes made by the act; providing an appropriation; providing effective dates.

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

Section 1. Section 472.027, Florida Statutes, is amended to read:

472.027 ~~Minimum technical Standards of practice for surveying and mapping.~~—The board shall adopt rules establishing standards of relating to the practice for the profession of surveying and mapping to:

(1) Assure competence in the practice of the profession;

- (2) Assure accuracy, completeness, and quality in the products provided;
- (3) Assure adequate and defensible real property boundary locations; and
- (4) Govern the following professional matters:
 - (a) Conflicts of interest.
 - (b) Client confidentiality.
 - (c) Misuse, reuse, unauthorized use, or alteration of another professional's product.
 - (d) Fair dealing in all professional relationships and private and public sector contracts.
 - (e) Retention of work products in hard copy or electronic or digital formats.
 - (f) Transfer and storage of files and file materials upon discontinuance of the practice of surveying and mapping which establish minimum technical standards to ensure the achievement of no less than minimum degrees of accuracy, completeness, and quality in order to assure adequate and defensible real property boundary locations and other pertinent information provided by surveyors and mappers under the authority of ss. 472.001-472.037.

Section 2. Paragraph (a) of subsection (1) of section 493.6108, Florida Statutes, is amended to read:

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services.—

(1) Except as otherwise provided, the department must investigate an applicant for a license under this chapter before it may issue the license. The investigation must include:

(a)1. An examination of fingerprint records and police records. If a criminal history record check of an ~~any~~ applicant under this chapter is performed by means of fingerprint identification, the time limitations prescribed by s. 120.60(1) shall be tolled while during ~~the time~~ the applicant's fingerprints are under review by the Department of Law Enforcement or the United States Department of Justice, Federal Bureau of Investigation.

2. If a legible set of fingerprints, as determined by the Department of Law Enforcement or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services may determine the applicant's eligibility based upon a criminal history record check under the applicant's name conducted by the Federal Bureau of Investigation ~~Department of Law Enforcement~~ if the fingerprints are taken by a law enforcement agency or the department and the applicant submits a

~~written statement signed by the fingerprint technician or a licensed physician stating that there is a physical condition that precludes obtaining a legible set of fingerprints or that the fingerprints taken are the best that can be obtained.~~

Section 3. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(b) Each Class “G” licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class “K” licensee and has complied with such other health and training requirements ~~that which~~ the department shall adopt by rule. Proof of completion of firearms recertification training shall be submitted to the department upon completion of the training. ~~If the licensee fails to complete documentation of completion of the required 4 hours of annual training during is not submitted by the end of the first year of the 2-year term of the license, the individual’s license shall be automatically suspended until proof of the required training is submitted to the department. The licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be reinstated. If the licensee fails to complete documentation of completion of the required 4 hours of annual training during is not submitted by the end of the second year of the 2-year term of the license, the licensee must complete~~ license shall not be renewed unless the renewal applicant completes the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be renewed. The department may waive the firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period;

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period; or

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period.

Section 4. Subsection (6) of section 493.6115, Florida Statutes, is amended to read:

493.6115 Weapons and firearms.—

(6) In addition to any other firearm approved by the department, a licensee who has been issued a Class “G” license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only; or a .40 caliber handgun; or a .45 ACP handgun while performing duties authorized under this chapter. ~~A~~ No licensee may ~~not~~ carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

Section 5. Subsection (4) is added to section 493.6305, Florida Statutes, to read:

493.6305 Uniforms, required wear; exceptions.—

(4) Class “D” licensees who are also Class “G” licensees and who are performing bodyguard or executive protection services may carry their authorized firearm concealed while in nonuniform as needed in the conduct of such services.

Section 6. Section 501.016, Florida Statutes, is amended to read:

501.016 Health studios; security requirements.—Each health studio that sells contracts for health studio services shall meet the following requirements:

(1) Each health studio shall maintain for each separate business location a bond issued by a surety company admitted to do business in this state. The principal sum of the bond ~~must shall~~ be \$25,000, and the bond, when required, ~~must shall~~ be obtained before a business tax receipt may be issued under chapter 205. Upon issuance of a business tax receipt, the licensing authority shall immediately notify the department of such issuance in a manner established by the department by rule. The bond ~~must shall~~ be in favor of the ~~department~~ state for the benefit of ~~a any~~ person injured as a result of a violation of ss. 501.012-501.019. Liability for injuries as a result of a violation of ss. 501.012-501.019 may be determined in an administrative proceeding of the department or through a civil action. However, claims against the bond or certificate of deposit may only be paid by order of the department in an administrative proceeding in amounts up to the determined liability for the injuries. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided by this section may not herein shall in no event exceed the amount of the bond. The original surety bond required by this section shall be filed with the department on a form adopted by department rule.

(2) In lieu of maintaining the bond required in subsection (1), the health studio may furnish to the department on a form adopted by department rule:

(a) An irrevocable letter of credit from a any foreign or domestic bank in the amount of \$25,000; or

(b) A guaranty agreement that is secured by a certificate of deposit in the amount of \$25,000.

The original letter of credit or certificate of deposit submitted in lieu of the bond shall be filed with the department. The department shall decide whether the security furnished in lieu of bond by the health studio complies is in compliance with the requirements of this section.

(3) A consumer may file a claim against the bond, letter of credit, or certificate of deposit. Such claim, which must be submitted in writing on an affidavit form adopted by department rule, must be submitted to the department within 120 days after an alleged injury has occurred or is discovered to have occurred or a judgment has been entered. The proceedings shall be conducted pursuant to chapter 120. For proceedings conducted pursuant to ss. 120.569 and 120.57, the department shall act only as a nominal party.

(4) Any indebtedness determined by final order of the department shall be paid by the health studio to the department within 30 days after the order is entered for disbursement to the consumer. If the health studio fails to make payment within 30 days, the department shall make a demand for payment upon the surety which includes an institution issuing a letter of credit or depository on a certificate of deposit. Upon failure of a surety to comply with a demand for payment pursuant to a final order, the department may file an action in circuit court to recover payment, up to the amount of the bond or other form of security, pursuant to s. 120.69. If the department prevails in such action, the department may recover court costs and reasonable attorney fees.

(5)(3) A health studio ~~that~~ ~~which~~ sells contracts for future health studio services and ~~which~~ collects direct payment on a monthly basis for those services ~~is shall~~ be exempt from the security requirements of subsections (1) and (2) ~~if provided that~~ any service fee charged is a reasonable and fair service fee. The number of monthly payments in such a contract ~~must shall~~ be equal to the number of months in the contract. The contract ~~must shall~~ conform to all the requirements for future health studio services contracts as specified in ss. 501.012-501.019 and ~~must shall~~ specify in the terms of the contract the charges to be assessed for those health studio services.

(6)(4) If the health studio furnishes the department with evidence satisfactory to the department that the aggregate dollar amount of all current outstanding contracts of the health studio is less than \$5,000, the department may, ~~at its discretion,~~ reduce the principal amount of the surety bond or other sufficient financial responsibility required in subsections (1)

and (2) to a sum of at least ~~not less than~~ \$10,000. However, at any time the aggregate dollar amount of such contracts exceeds \$5,000, the health studio shall ~~so~~ notify the department and shall ~~thereupon~~ provide the bond or other documentation as required in subsections (1) and (2). Health studios whose bonds have been reduced ~~shall~~ must provide the department with an annually updated list of members. ~~Failure to file an annual report will result in~~ The department shall increase raising the security requirement to \$25,000 for a health studio that fails to file an annual report.

(7)(5) Each health studio shall furnish the department with a copy of the escrow account which would contain all funds received for future consumer services, whether provided under by contract or otherwise, sold before ~~prior~~ to the business location's full operation and specify a date certain for opening, if such an escrow account is established.

(8)(6) Subsections (1) and (2) ~~do~~ shall not apply to a health studio that has been operating in compliance with ss. 501.012-501.019 and rules adopted thereunder, continuously under the same ownership and control, continuously for the most recent 5-year period; ~~in compliance with ss. 501.012-501.019 and the rules adopted thereunder~~ and that has not had any civil, criminal, or administrative adjudication against it by any state or federal agency; and that has a satisfactory consumer complaint history. As used in this subsection, the term "satisfactory consumer complaint history" means that there are no unresolved consumer complaints regarding the health studio ~~are~~ on file with the department. A consumer complaint is unresolved if a health studio has not responded to the department's efforts to mediate the complaint or if there has been an adjudication that the health studio has violated ss. 501.012-501.019 or the rules adopted thereunder. Such exemption extends to all current and future business locations of an exempt health studio.

(9)(7) This section does not apply to a business, otherwise defined as a health studio, which sells a single contract of 30 days or less to ~~a any~~ member without any option for renewal or any other condition ~~that which~~ establishes any right in the member beyond the term of such contract ~~is exempt from the provisions of this section.~~ However, this exemption ~~does~~ shall not apply if the business offers any other health studio contract, regardless of ~~whatever~~ duration, at any time before or during ~~or prior to~~ the existence of such single contract of 30 days or less.

(10)(8) Except in the case of a natural disaster or an act of God, a health studio that is exempt from the requirements of subsections (1) and (2), but does not have any that has no business locations open for 14 consecutive days, waives its exemption and is considered to be a new health studio for the purposes of ss. 501.012-501.019.

Section 7. Subsection (5) of section 501.059, Florida Statutes, is amended to read:

501.059 Telephone solicitation.—

(5) A telephone solicitor or other person may not initiate an outbound telephone call to a consumer or donor or potential donor who has previously communicated to the telephone solicitor or other person that he or she does not wish to receive an outbound telephone call:

(a) Made by or on behalf of the seller whose goods or services are being offered; or

(b) Made on behalf of a charitable organization for which a charitable contribution is being solicited.

Section 8. Section 501.143, Florida Statutes, is repealed.

Section 9. Subsections (8) through (11) of section 501.603, Florida Statutes, are renumbered as subsections (9) through (12), respectively, subsection (2) of that section is amended, and a new subsection (8) is added to that section, to read:

501.603 Definitions.—As used in this part, unless the context otherwise requires, the term:

(2) “Commercial telephone seller” means a person who engages in commercial telephone solicitation on his or her own behalf or through salespersons. ~~The term, except that a commercial telephone seller does not include a salesperson as defined in subsection (11) or a person or entity operating under a valid affidavit of exemption filed with the department according to s. 501.608(1)(b) or exempted from this part by s. 501.604. The term~~ A commercial telephone seller does not include a salesperson as defined in subsection (10). A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity pursuant to this part.

(8) “Novelty payment” means a payment method that does not provide systematic monitoring to detect and deter fraud. The term includes, but is not limited to, the following payment devices:

(a) A remotely created check, which is a check that is not created by the paying bank and that does not bear the signature of the person on whose account the check is drawn.

(b) A remotely created payment order, which is a payment instruction or order drawn on a person’s account which is initiated or created by the payee and which does not bear the signature of the person on whose account the order is drawn and which is cleared through a check-clearing system.

(c) A cash-to-cash money transfer, which is the electronic transfer of the value of cash received from one person to another person in a different location which is sent by a money transfer provider and received in the form of cash. As used in this paragraph, the term “money transfer provider” means a person or financial institution that provides cash-to-cash money transfers

for a person in the normal course of its business, regardless of whether the person holds an account with such person or financial institution.

(d) A cash reload mechanism, which is a system that makes it possible to convert cash into an electronic form that a person can use to add money to a general-use prepaid card or an online account with a payment intermediary. As used in this paragraph, the term “mechanism” means a system that is purchased by a person on a prepaid basis, that enables access to the funds via an authorization code or other security measure, and that is not directly used as a general-use prepaid card.

Section 10. Section 501.611, Florida Statutes, is amended to read:

501.611 Security.—

(1) An application filed pursuant to s. 501.605 must be accompanied by:

(a) A bond executed by a corporate surety approved by the department and licensed to do business in this state;

(b) An irrevocable letter of credit issued for the benefit of the applicant by a bank whose deposits are insured by an agency of the Federal Government; or

(c) A certificate of deposit in a financial institution insured by an agency of the Federal Government, which may be withdrawn only on the order of the department, except that the interest may accrue to the applicant.

(2) The amount of the bond, letter of credit, or certificate of deposit must be a minimum of \$50,000, and the bond, letter of credit, or certificate of deposit must be in favor of the department for the use and benefit of a purchaser who is injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of this part by the applicant must be conditioned upon compliance by the applicant with the provisions of this part. The department may, at its discretion, establish a bond of a greater amount to ensure the general welfare of the public and the interests of the telemarketing industry.

(3) The bond shall be posted with the department on a form adopted by department rule and shall remain in force throughout the period of licensure with the department.

(4) The department or a ~~any~~ governmental agency, on behalf of ~~an~~ injured purchaser or a ~~any~~ purchaser herself or himself who is injured by ~~the bankruptcy of the applicant or her or his breach of any agreement entered into in her or his capacity as a licensee,~~ may bring and maintain an action to recover against the bond, letter of credit, or certificate of deposit.

(5) A purchaser may file a claim against the bond, letter of credit, or certificate of deposit. Such claim, which must be submitted in writing on an affidavit form adopted by department rule, must be submitted to the

department within 120 days after an alleged injury has occurred or is discovered to have occurred or a judgment has been entered. The proceedings shall be conducted pursuant to chapter 120. For proceedings conducted pursuant to ss. 120.569 and 120.57, the department shall act only as a nominal party.

(6) Any indebtedness determined by final order of the department shall be paid by the commercial telephone seller to the department within 30 days after the order is entered for disbursement to the purchaser. If the commercial telephone seller fails to make payment within 30 days, the department shall make a demand for payment upon the surety which includes an institution issuing a letter of credit or depository on a certificate of deposit. Upon failure of a surety to comply with a demand for payment pursuant to a final order, the department may file an action in circuit court to recover payment, up to the amount of the bond or other form of security, pursuant to s. 120.69. If the department prevails, the department may recover court costs and reasonable attorney fees.

Section 11. Section 501.616, Florida Statutes, is amended to read:

501.616 Unlawful acts and practices.—

~~(1) A It shall be unlawful for any commercial telephone seller or salesperson may not directly or indirectly accept a novelty payment, as defined in s. 501.603(8) or by rule, as payment for goods or services offered or sold through telemarketing to require that payment be by credit card authorization or otherwise to announce a preference for that method of payment.~~

~~(2) A It shall be unlawful for any commercial telephone seller may not to employ; or be affiliated with an, any unlicensed salesperson.~~

~~(3) A It shall be unlawful for any salesperson may not to be employed by; or affiliated with; an unlicensed commercial telephone seller.~~

~~(4) A It shall be unlawful for any commercial telephone seller or salesperson must to be licensed unlicensed.~~

~~(5) A It shall be unlawful for any salesperson or commercial telephone seller may not to otherwise violate the provisions of this part.~~

~~(6) A It shall be unlawful for any commercial telephone seller or salesperson may not to make a commercial telephone solicitation phone call before 8 8:00 a.m. or after 9 9:00 p.m. local time at the called person's location.~~

~~(7) A It shall be unlawful for any commercial telephone seller or salesperson making a commercial telephone solicitation call may not intentionally act telephonic solicitations to take any intentional action to prevent transmission of the telephone solicitor's name or telephone number to the party called when the equipment or service used by the telephone~~

solicitor is capable of creating and transmitting the telephone solicitor's name or telephone number.

Section 12. Subsection (1) of section 501.913, Florida Statutes, is amended to read:

501.913 Registration.—

(1) Each brand of antifreeze to be distributed in this state shall be registered with the department before distribution. The person whose name appears on the label, the manufacturer, or the packager shall make application annually to the department on forms provided by the department no later than July 1 of each year. The registration certificate shall expire 12 months after the date of issue. The registrant assumes, by application to register the brand, full responsibility for the registration, quality, and quantity of the product sold, offered, or exposed for sale in this state. If a registered brand is not in production for distribution in this state and to ensure any remaining product that is still available for sale in the state is properly registered, the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

(a) The stated brand is no longer in production;

(b) The stated brand will not be distributed in this state; and

(c) All existing product of the stated brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for two subsequent registration periods.

If production resumes, the brand must be reregistered before it is distributed in this state.

Section 13. Paragraph (b) of subsection (1) of section 525.16, Florida Statutes, is amended to read:

525.16 Administrative fine; penalties; prosecution of cases by state attorney.—

(1)

(b) If, 3 years after the date ~~day of issuance~~ of the last ~~stop-sale order~~ for a violation under this chapter, ~~a~~ no new violation has not occurred at the same location during the proprietorship of the same person, all previous fines shall be disregarded when administering a fine for the next violation.

Section 14. Section 526.015, Florida Statutes, is created to read:

526.015 Lubricating oil standards and labeling requirements.—

(1) A person may not sell or distribute, or offer for sale or distribution, a lubricating oil that fails to meet a quality standard, such as those established

by the Society of Automotive Engineers or other similar standard, or a labeling requirement designed to prevent deceptive or misleading practices as adopted by department rule.

(2) A product that fails to meet a standard or labeling requirement adopted by department rule shall be placed under a stop-sale order by the department, and the lot number of the product shall be identified and tagged by the department to prevent its sale.

(3) A person may not sell or distribute, or offer for sale or distribution, a product that has been placed under a stop-sale order.

(4) If a product is made to conform to standards and labeling requirements or is removed from the premises in a manner approved by the department, the department shall issue a release order.

Section 15. Subsection (6) of section 526.50, Florida Statutes, is amended to read:

526.50 Definition of terms.—As used in this part:

~~(6) “Permit year” means a period of 12 months commencing July 1 and ending on the next succeeding June 30.~~

Section 16. Subsection (1) of section 526.51, Florida Statutes, is amended to read:

526.51 Registration; renewal and fees; departmental expenses; cancellation or refusal to issue or renew.—

(1)(a) Application for registration of each brand of brake fluid shall be made on forms supplied by the department. The applicant shall give his or her name and address and the brand name of the brake fluid, state that he or she owns the brand name and has complete control over the product sold thereunder in this state, and provide the name and address of the resident agent in this state. If the applicant does not own the brand name but wishes to register the product with the department, a notarized affidavit that gives the applicant full authorization to register the brand name and that is signed by the owner of the brand name must accompany the application for registration. The affidavit must include all affected brand names, the owner's company or corporate name and address, the applicant's company or corporate name and address, and a statement from the owner authorizing the applicant to register the product with the department. The owner of the brand name shall maintain complete control over each product sold under that brand name in this state. All first-time applications for a brand and formula combination must be accompanied by a certified report from an independent testing laboratory, setting forth the analysis of the brake fluid which shows its quality to be not less than the specifications established by the department for brake fluids. A sample of not less than 24 fluid ounces of brake fluid shall be submitted, in a container with a label printed in the same manner that it or containers, with labels representing exactly how the

containers of brake fluid will be labeled when sold, and the sample and container shall be analyzed and inspected by the department in order that compliance with the department's specifications and labeling requirements may be verified. Upon approval of the application, the department shall register the brand name of the brake fluid and issue to the applicant a permit authorizing the registrant to sell the brake fluid in this state ~~during the permit year specified in the permit.~~ The registration certificate shall expire 12 months after the date of issue.

(b) Each applicant shall pay a fee of \$100 with each application. A permit may be renewed by application to the department, accompanied by a renewal fee of \$50 on or before the expiration last day of the previously issued permit year immediately preceding the permit year for which application is made for renewal of registration. To reregister a previously registered brand and formula combination, an applicant must submit a completed application and all materials as required in this section to the department before the expiration first day of the previously issued permit year. A brand and formula combination for which a completed application and all materials required in this section are not received before the expiration first day of the previously issued permit year may not be registered with the department until a completed application and all materials required in this section have been received and approved. If the brand and formula combination was previously registered with the department and a fee, application, or materials required in this section are received after the expiration first day of the previously issued permit year, a penalty of \$25 accrues, which shall be added to the fee. Renewals shall be accepted only on brake fluids that have no change in formula, composition, or brand name. Any change in formula, composition, or brand name of a any brake fluid constitutes a new product that must be registered in accordance with this part.

(c) If a registered brand and formula combination is no longer in production for distribution in this state, in order to ensure that any remaining product still available for sale in this state is properly registered, ~~if a registered brand and formula combination is no longer in production for distribution in this state,~~ the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

1. The stated brand and formula combination is no longer in production;
2. The stated brand and formula combination will not be distributed in this state; and
3. Either all existing product of the stated brand and formula combination will be removed by the registrant from the state within 30 days after the expiration of the registration or that the registrant will reregister the brand and formula combination for 2 two subsequent years ~~registration periods.~~

If production resumes, the brand and formula combination must be reregistered before it is again distributed in this state.

Section 17. Paragraph (a) of subsection (4), paragraphs (b) and (d) of subsection (7), and paragraph (b) of subsection (8) of section 539.001, Florida Statutes, are amended to read:

539.001 The Florida Pawnbroking Act.—

(4) ELIGIBILITY FOR LICENSE.—

(a) To be eligible for a pawnbroker's license, an applicant must:

1. Be of good moral character;

2. Have a net worth of at least \$50,000 or file with the agency a bond issued by a surety company qualified to do business in this state in the amount of \$10,000 for each license. In lieu of the bond required in this section, the applicant may establish a certificate of deposit or an irrevocable letter of credit in a Florida banking institution in the amount of the bond. The original bond, certificate of deposit, or letter of credit shall be filed with the agency on a form adopted by agency rule, and the agency shall be the beneficiary to said document. The bond, certificate of deposit, or letter of credit ~~must shall~~ be in favor of the agency for the use and benefit of ~~a any~~ consumer who is injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of ~~any provision of~~ this section by the pawnbroker. Such liability may be enforced either by proceeding in an administrative action or by filing a civil action judicial suit at law in a court of competent jurisdiction. However, in such civil action court suit, the bond, certificate of deposit, or letter of credit posted with the agency ~~may shall~~ not be amenable or subject to ~~a any~~ judgment or other legal process issuing out of or from such court in connection with such civil action lawsuit, but such bond, certificate of deposit, or letter of credit shall be amenable to and enforceable only by and through administrative proceedings before the agency. It is the intent of the Legislature that such bond, certificate of deposit, or letter of credit ~~shall~~ be applicable and liable only for the payment of claims duly adjudicated by order of the agency. The bond, certificate of deposit, or letter of credit shall be payable on a pro rata basis as determined by the agency, but the aggregate amount awarded may not exceed the amount of the bond, certificate of deposit, or letter of credit. A consumer may file a claim against the bond, certificate of deposit, or letter of credit. Such claim, which must be submitted in writing on an affidavit form adopted by agency rule, must be submitted to the agency within 120 days after an alleged injury has occurred or is discovered to have occurred or a judgment has been entered. The proceedings shall be conducted pursuant to chapter 120. For proceedings conducted pursuant to ss. 120.569 and 120.57, the agency shall act only as a nominal party. Any indebtedness determined by final order of the agency shall be paid by the pawnbroker to the agency within 30 days after the order is entered for disbursement to the consumer. If the pawnbroker fails to make payment within 30 days, the agency shall make a demand for payment upon the surety which includes an institution issuing a letter of credit or depository on a certificate of deposit. Upon failure of a surety to comply with a demand for payment pursuant to a final order, the agency may file an

action in circuit court to recover payment, up to the amount of the bond or other form of security, pursuant to s. 120.69. If the agency prevails in such action, the agency may recover court costs and reasonable attorney fees;

3. Not have been convicted of, or found guilty of, or pled guilty or nolo contendere to, or not have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a felony within the last 10 years and not be acting as a beneficial owner for someone who has been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a felony within the last 10 years; and

4. Not have been convicted of, or found guilty of, or pled guilty or nolo contendere to, or not have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years, and not be acting as a beneficial owner for someone who has been convicted of, or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years.

(7) ORDERS IMPOSING PENALTIES.—

(b) Upon a finding as set forth in paragraph (a), the agency may enter an order doing one or more of the following:

1. Issuing a notice of noncompliance pursuant to s. 120.695.
2. Imposing an administrative fine of up to ~~not to exceed~~ \$5,000 for each act that ~~which~~ constitutes a violation of this section, ~~or~~ a rule, or an order.
3. Directing that the pawnbroker cease and desist specified activities.
4. Refusing to license or revoking or suspending a license.
5. Placing the licensee on probation for a period of time, subject to such conditions as the agency may specify.

(d)1. ~~When the agency,~~ If a violation of this section occurs and the agency, has reasonable cause to believe that a person is operating in violation of this section, the agency may bring a civil action in the appropriate court for temporary or permanent injunctive relief and may seek other appropriate civil relief, including a civil penalty of up to ~~not to exceed~~ \$5,000 for each

violation, restitution and damages for injured customers, court costs, and reasonable attorney attorney's fees.

2. The agency may terminate ~~an any~~ investigation or action upon agreement by the offender to pay a stipulated civil penalty, to make restitution or pay damages to customers, or to satisfy any other relief authorized under this subsection ~~herein~~ and requested by the agency.

Section 18. Section 559.929, Florida Statutes, is amended to read:

559.929 Security requirements.—

(1) An application must be accompanied by a performance bond in an amount set by the department under paragraph (a), paragraph (b), or paragraph (c). The surety on such bond must ~~shall~~ be a surety company authorized to do business in the state.

(a) Each seller of travel which ~~that~~ certifies its business activities under s. 559.9285(1)(a) shall provide a performance bond in an amount up not to exceed \$25,000, or in the amount of \$50,000 if the seller of travel is offering vacation certificates.

(b) Each seller of travel which ~~that~~ certifies its business activities under s. 559.9285(1)(b) shall provide a performance bond in an amount up not to exceed \$100,000, or in the amount of \$150,000 if the seller of travel is offering vacation certificates.

(c) Each seller of travel which ~~that~~ certifies its business activities under s. 559.9285(1)(c) shall provide a performance bond in an amount up not to exceed \$250,000, or in the amount of \$300,000 if the seller of travel is offering vacation certificates.

(2) The bond must ~~shall~~ be filed with the department on a form adopted by department rule and must be in favor of the department for the use and benefit of ~~a any~~ traveler who is injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of ~~any provision of~~ this part by the seller of travel. Such liability may be enforced ~~either~~ by proceeding in an administrative action as specified in subsection (3) or by filing a civil action ~~judicial suit at law in a court of competent jurisdiction~~. However, in such civil action ~~court suit~~ the bond posted with the department shall not be amenable or subject to ~~a any~~ judgment or other legal process issuing out of or from such court in connection with such civil action ~~lawsuit~~, but such bond shall be amenable to and enforceable only by and through administrative proceedings before the department. It is the intent of the Legislature that such bond ~~shall~~ be applicable and liable only for the payment of claims duly adjudicated by order of the department. The bond must ~~shall~~ be open to successive claims, but the aggregate amount awarded may not exceed the amount of the bond. In addition to the foregoing, a bond provided by a registrant or applicant for registration which certifies its business activities

under s. 559.9285(1)(b) or (c) must ~~shall~~ be in favor of the department, with payment in the following order of priority:

(a) ~~The All~~ expenses for prosecuting the registrant or applicant in an any administrative or civil action under this part, including attorney fees ~~for attorneys~~ and fees for other professionals, court costs or other costs of the proceedings, and all other expenses incidental to the action.

(b) ~~The All~~ costs and expenses of investigation before ~~prior to~~ the commencement of an administrative or civil action under this part.

(c) ~~An Any~~ unpaid administrative fine imposed by final order or an any unpaid civil penalty imposed by final judgment under this part.

(d) Damages or compensation for a any traveler injured as provided in this subsection.

(3) A Any traveler may file a claim against the bond. Such claim, which must shall be submitted made in writing on an affidavit form adopted by department rule, must be submitted to the department within 120 days after an alleged injury has occurred or is discovered to have occurred or a judgment has been entered. The proceedings shall be conducted pursuant to chapter 120. For The proceedings conducted pursuant to shall be held in accordance with ss. 120.569 and 120.57, the agency shall act only as a nominal party.

(4) Any indebtedness determined by final order of the department shall be paid by the seller of travel to the department within 30 days after the order is entered for disbursement to the consumer. If the seller of travel fails to make payment within 30 days, the agency shall make a demand for payment upon the surety which includes an institution issuing a letter of credit or depository on a certificate of deposit. Upon failure of a surety to comply with a demand for payment pursuant to a final order, the department may file an action in circuit court to recover payment, up to the amount of the bond or other form of security, pursuant to s. 120.69. If the department prevails, the department may recover court costs and reasonable attorney fees.

(5)(4) ~~If In any situation in which~~ the seller of travel is currently the subject of an administrative, civil, or criminal action by the department, the Department of Legal Affairs, or the state attorney relating to concerning compliance with this part, the right to proceed against the bond as provided in subsection (3) is shall be suspended until ~~after~~ any enforcement action becomes final.

(6)(5) The department may waive the bond requirement on an annual basis if the seller of travel has had 5 or more consecutive years of experience as a seller of travel in this state Florida in compliance with this part, has not had a any civil, criminal, or administrative action instituted against the seller of travel in the vacation and travel business by a any governmental agency or an any action involving fraud, theft, misappropriation of property,

violation of a any statute pertaining to business or commerce with a any terrorist state, or moral turpitude, and has a satisfactory consumer complaint history with the department, and certifies its business activities under s. 559.9285. Such waiver may be revoked if the seller of travel violates ~~any provision of this part~~. A seller of travel which ~~that~~ certifies its business activities under s. 559.9285(1)(b) or (c) is not entitled to the waiver provided in this subsection.

Section 19. Effective January 1, 2015, subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for

sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, which include conducting a criminal history background check for approval of firearms purchases or transfers as authorized by state or federal law, to judges in the state courts system for the purpose of assisting them in their case-related decisionmaking responsibilities, as set forth in s. 943.053(5), or to those entities set forth in subparagraphs (a)1., 4., 5., 6., and 8., and 8. for their respective licensing, access authorization, and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;
6. Is seeking to be employed or licensed by the Department of Education, a ~~any~~ district school board, a ~~any~~ university laboratory school, a ~~any~~ charter school, a ~~any~~ private or parochial school, or a ~~any~~ local governmental entity that licenses child care facilities; ~~or~~
7. Is attempting to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law; ~~or~~
8. Is seeking to be licensed by the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services to carry a concealed weapon or concealed firearm. This

subparagraph applies only in the determination of an applicant’s eligibility under s. 790.06.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person’s failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., 6., and 8., ~~and 8.~~ for their respective licensing, access authorization, and employment purposes. An ~~It is unlawful for any~~ employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or subparagraph (a)8. may not ~~subparagraph (a)8. to~~ disclose information relating to the existence of a sealed criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. A ~~Any~~ person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 20. Section 205.1969, Florida Statutes, is amended to read:

205.1969 Health studios; consumer protection.—A county or municipality may not issue or renew a business tax receipt for the operation of a health studio pursuant to ss. 501.012-501.019 ~~or ballroom dance studio pursuant to s. 501.143,~~ unless such business exhibits a current license, registration, or letter of exemption from the Department of Agriculture and Consumer Services.

Section 21. Subsection (1) of section 472.025, Florida Statutes, is amended to read:

472.025 Seals.—

(1) The board shall adopt ~~prescribe~~, by rule, a form of seal to be used by all registrants holding valid certificates of registration, whether the registrants are corporations, partnerships, or individuals. Each registrant shall obtain an impression-type metal seal in that form; and all final drawings, plans, specifications, plats, or reports prepared or issued by the registrant in accordance with the minimum technical standards of practice established ~~the minimum technical standards of practice~~ set by the board shall be signed by the registrant, dated, and stamped with his or her seal. This signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Each registrant may in

addition register his or her seal electronically in accordance with ss. 668.001-668.006. Drawings, plans, specifications, reports, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with such seal in accordance with ss. 668.001-668.006.

Section 22. Subsection (6) of section 501.015, Florida Statutes, is amended to read:

501.015 Health studios; registration requirements and fees.—Each health studio shall:

(6) Be considered a new health studio and shall be subject to the requirements of s. 501.016 each time the health studio changes ownership or, in the case of corporate ownership, each time the stock ownership is changed so as to effectively put the health studio under new management or control, notwithstanding the provisions of s. ~~501.016(8)~~ 501.016(6). A change of ownership does not occur within the meaning of this subsection if:

- (a) Substantially the same stockholders form a new corporate entity;
- (b) In the opinion of the department, the change does not effectively place the health studio under new management and control; and
- (c) The health studio has a satisfactory complaint history with the department.

Section 23. Paragraph (a) of subsection (1) of section 627.7842, Florida Statutes, is amended to read:

627.7842 Policy exceptions.—

(1)(a) If a survey meeting the ~~minimum technical standards of practice~~ minimum technical standards of practice for surveying required by the Department of ~~Agriculture and Consumer Services Business and Professional Regulation~~ Agriculture and Consumer Services Business and Professional Regulation and certified to the title insurer by a registered Florida surveyor has been completed on the property within 90 days before the date of closing, the title policy may only except from coverage the encroachments, overlays, boundary line disputes, and other matters which are actually shown on the survey.

Section 24. Paragraph (e) of subsection (4) of section 718.104, Florida Statutes, is amended to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

- (4) The declaration must contain or provide for the following matters:
 - (e) A survey of the land which meets the ~~minimum technical standards of practice established set forth~~ minimum technical standards of practice established by the Board of Professional Surveyors and Mappers, pursuant to s. 472.027, and a graphic description of the

improvements in which units are located and a plot plan thereof that, together with the declaration, are in sufficient detail to identify the common elements and each unit and their relative locations and approximate dimensions. Failure of the survey to meet the minimum technical standards of practice does shall not invalidate an otherwise validly created condominium. The survey, graphic description, and plot plan may be in the form of exhibits consisting of building plans, floor plans, maps, surveys, or sketches. If the construction of the condominium is not substantially completed, there shall be a statement to that effect, and, upon substantial completion of construction, the developer or the association shall amend the declaration to include the certificate described below. The amendment may be accomplished by referring to the recording data of a survey of the condominium that complies with the certificate. A certificate of a surveyor and mapper authorized to practice in this state shall be included in or attached to the declaration or the survey or graphic description as recorded under s. 718.105 that the construction of the improvements is substantially complete so that the material, together with the provisions of the declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials. Completed units within each substantially completed building in a condominium development may be conveyed to purchasers, notwithstanding that other buildings in the condominium are not substantially completed, provided that all planned improvements, including, but not limited to, landscaping, utility services and access to the unit, and common-element facilities serving such building, as set forth in the declaration, are first completed and the declaration of condominium is first recorded and provided that as to the units being conveyed there is a certificate of a surveyor and mapper as required above, including certification that all planned improvements, including, but not limited to, landscaping, utility services and access to the unit, and common-element facilities serving the building in which the units to be conveyed are located have been substantially completed, and such certificate is recorded with the original declaration or as an amendment to such declaration. This section does shall not, however, operate to require development of improvements and amenities declared to be included in future phases pursuant to s. 718.403 before prior to conveying a unit as provided in this paragraph herein. For the purposes of this section, a “certificate of a surveyor and mapper” means certification by a surveyor and mapper in the form provided in this paragraph herein and may include, along with certification by a surveyor and mapper, when appropriate, certification by an architect or engineer authorized to practice in this state. Notwithstanding the requirements of substantial completion provided in this section, this paragraph does not ~~nothing contained herein shall~~ prohibit or impair the validity of a mortgage encumbering units together with an undivided interest in the common elements as described in a declaration of condominium recorded before prior to the recording of a certificate of a surveyor and mapper as provided in this paragraph herein.

Section 25. For the 2014-2015 fiscal year, the sum of \$35,745 in nonrecurring funds is appropriated to the Department of Law Enforcement from the Operating Trust Fund for contracted services and operating capital outlay related to sealed criminal history records. To support this appropriation, funds in this amount shall be transferred from the Division of Licensing Trust Fund of the Department of Agriculture and Consumer Services to the Operating Trust Fund of the Department of Law Enforcement.

Section 26. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.