

House Bill No. 5047

An act relating to the Department of Business and Professional Regulation; amending s. 455.32, F.S.; revising the procedures authorizing the department to contract with a nonprofit corporation to provide administrative, examination, licensing, investigative, and prosecutorial services to a regulatory board; providing for a recommendation for such authorization in the department's budget request; requiring specific authorization by general law before privatization may proceed; amending s. 481.205, F.S., relating to the Board of Architecture and Interior Design; revising the requirements for the board's annual budget request; requiring that the board submit an annual report to the Executive Office of the Governor and the Legislature concerning activities relating to unlicensed activity; prescribing requirements for the contents of the report; amending s. 509.032, F.S., relating to the Division of Hotels and Restaurants; deleting a provision requiring that the division provide certain assistance to the State Fire Marshal; deleting a provision requiring that the division provide technical assistance to the Florida Building Commission when updating the construction standards of the Florida Fire Prevention Code; deleting a provision requiring that the division enforce certain provisions of the Florida Fire Prevention Code; revising certain reporting requirements of the division; amending s. 718.501, F.S., relating to the Division of Florida Land Sales, Condominiums, and Mobile Homes; requiring that the division report annually to the Governor and the Legislature on activities involving training programs for condominium association board members and unit owners, the investigation of complaints, and its core business processes; providing an effective date.

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

Section 1. Subsection (4) and paragraphs (d) and (p) of subsection (6) of section 455.32, Florida Statutes, are amended to read:

455.32 Management Privatization Act.—

(4) Based upon the request of any board, the department is authorized to establish and contract with a nonprofit corporation to provide administrative, examination, licensing, investigative, and prosecutorial services to that board, in accordance with the provisions of this chapter and the applicable practice act and as specified in a contract between the department and the corporation. The privatization request must contain a business case that includes a needs assessment and financial feasibility study performed by the board or an entity commissioned by a majority vote of the board. The needs assessment must contain specific performance standards and measurable outcomes and an evaluation of the department's current and projected performance in regard to those standards. The feasibility study must include the financial status of the board for the current fiscal year and the next 2 fiscal years. A financial model for the corporation must also be developed

which includes projected costs and expenses for the first 2 years of operation and specific performance standards and measurable outcomes. The business case for privatization shall be submitted by the board to the department for inclusion in its legislative budget request to the Executive Office of the Governor and the Legislature pursuant to s. 216.023 must be approved by the Executive Office of the Governor and the Legislative Budget Commission prior to the establishment of the nonprofit corporation. The board shall proceed with the privatization only if such privatization is specifically authorized by general law.

(6) Each corporation created to perform the functions provided in this section shall:

(d) Be approved by the department to operate for the benefit of the board and in the best interest of the state and specifically authorized by the Legislature.

(p) Meet or exceed the requirements of the business case developed by the board and approved by the Executive Office of the Governor ~~and the Legislative Budget Commission.~~

Section 2. Subsection (3) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3)(a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or restriction of a license pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture and interior design; and to investigate and deter the unlicensed practice of architecture and interior design as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

(b) The board shall contract with a corporation or other business entity pursuant to s. 287.057(3) to provide investigative, legal, prosecutorial, and other services necessary to perform its duties.

(c) The corporation or business entity shall comply with all the record-keeping and reporting requirements of s. 455.32 applicable to the scope of the contract and shall report directly to the board in lieu of the department. Records of the corporation or other business entity contracting with the board shall be considered public records as specified in s. 455.32(15).

(d) Notwithstanding the provisions of s. 455.228, the board may use funds in the unlicensed activity account established under s. 455.2281 to perform its duties relating to unlicensed activity under this subsection.

(e) The board shall submit an annual budget request to the department by October 1 of each year Legislature for the purpose of funding its activities under this subsection. The department, on behalf of the board, shall submit the budget request unchanged to the Executive Office of the Governor and, which must be separate from the legislative budget request submitted by the department to the Legislature pursuant to s. 216.023.

(f) The board shall issue an annual report on the activities under this subsection by October 1 of each year. The annual report shall be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees. The report shall describe all of the activities performed under this subsection for the previous fiscal year and shall include, but need not be limited to, the following:

1. The number of complaints received.
2. The number of complaints determined to be legally sufficient.
3. The number of complaints determined to be legally insufficient.
4. The number of complaints dismissed.
5. The number of complaints filed in circuit court.
6. The number of complaints determined to have probable cause.
7. The number of administrative complaints issued and the status of the complaints.
8. The number and nature of disciplinary actions taken by the board.
9. The number and the amount of fines and penalties imposed.
10. The number and the amount of fines and penalties collected.
11. Total revenues received and all expenses incurred by the contractor during the previous fiscal year.
12. Total completed investigations.
13. Total pending investigations.
14. A summary of any audits performed, including financial reports and performance audits of the contractor.

Section 3. Paragraph (d) of subsection (2) and subsection (5) of section 509.032, Florida Statutes, are amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those

establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division. The division may not establish by rule any regulation governing the design, construction, erection, alteration, modification, repair, or demolition of any public lodging or public food service establishment. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. The division shall provide technical assistance to the commission and the State Fire Marshal in updating the construction standards of the Florida Building Code and the Florida Fire Prevention Code which govern public lodging and public food service establishments. Further, the division shall enforce the provisions of the Florida Building Code and the Florida Fire Prevention Code which apply to public lodging and public food service establishments in conducting any inspections authorized by this part.

(5) **REPORTS REQUIRED.**—The division shall ~~submit annually to send~~ the Governor, ~~the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees~~ a ~~written~~ report, which shall state, but ~~need not be limited to, the total number of active public lodging and public food service licenses in the state, the total number of inspections of these establishments~~ conducted by the division to ensure the enforcement of sanitary standards, the total number of inspections conducted in response to emergency or epidemiological conditions, the number of violations of each sanitary standard, ~~the total number of inspections conducted to meet the statutorily required number of inspections,~~ and any recommendations for improved inspection procedures. The division shall also keep accurate account of all expenses arising out of the performance of its duties and all fees collected under this chapter. The report shall be submitted by September 30 following the end of the fiscal year.

Section 4. Paragraph (n) is added to subsection (1) of section 718.501, Florida Statutes, to read:

718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the “division” in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(n) The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report shall also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

Section 5. This act shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.