

## CHAPTER 2023-211

### Committee Substitute for Committee Substitute for House Bill No. 869

An act relating to the Department of Business and Professional Regulation; amending s. 468.8414, F.S.; requiring the department to certify for licensure qualified individuals who practice mold assessment or mold remediation and hold certain licenses issued by other states or territories; amending s. 469.004, F.S.; revising requirements for the issuance of an asbestos consultant's license; requiring the department to certify for licensure by endorsement asbestos consultants and asbestos contractors who meet certain exam and other state licensure requirements; requiring asbestos consultants and asbestos contractors to complete certain courses; amending s. 489.514, F.S.; removing a time limitation for applying for certain contracting licenses; amending s. 509.091, F.S.; requiring licensees and licensed agents to provide the department's Division of Hotels and Restaurants with e-mail addresses at which they can be contacted; authorizing the division to send notices and inspection reports by e-mail; amending s. 509.101, F.S.; revising guest register maintenance requirements for transient establishment operators; amending s. 509.241, F.S.; requiring certain persons, licensees, and licensed agents to create and maintain a division online account and provide the division with specified information; requiring the division to adopt rules; providing requirements for such rules; amending s. 548.043, F.S.; removing a limitation on the types of boxing exhibitions which require a specified maximum difference in participant weights; amending s. 553.73, F.S.; authorizing the Florida Building Commission to delay the effective date of the energy provisions of the Florida Building Code for a specified timeframe under certain circumstances; amending s. 565.04, F.S.; authorizing package stores to sell nicotine products; amending s. 721.075, F.S.; revising requirements for certain incidental benefits; amending s. 721.10, F.S.; revising requirements for certain contract cancellations; amending s. 721.11, F.S.; conforming cross-references; amending s. 721.55, F.S.; revising disclosure requirements for multisite timeshare plan public offering statements; providing an effective date.

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

Section 1. Subsection (3) of section 468.8414, Florida Statutes, is amended to read:

468.8414 Licensure.—

(3) The department shall certify as qualified for a license by endorsement an applicant who is of good moral character, who has the insurance coverage required under s. 468.8421, and who meets at least one of the following requirements:

(a) Is qualified to take the examination as set forth in s. 468.8413 and has passed a certification examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation and that has been approved by the department as substantially equivalent to the requirements of this part and s. 455.217; ~~or~~

(b) Holds a valid license to practice mold assessment or mold remediation 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 is~~ established by this part as determined by the department.

(c) Has held a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States for at least 10 years before the date of application. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active.

Section 2. Subsection (3) of section 469.004, Florida Statutes, is renumbered as subsection (4), subsection (1) is amended, and a new subsection (3) is added to that section, to read:

469.004 License; asbestos consultant; asbestos contractor.—

(1) All asbestos consultants must be licensed by the department. Except for an asbestos consultant's license issued by endorsement as provided under subsection (3) or otherwise expressly provided by law, an asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid, active license as a professional engineer issued under chapter 471; holds a current, valid, active license as a professional geologist issued under chapter 492; is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

(3) The department shall certify as qualified for licensure by endorsement any individual applying for licensure who has passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, has held a valid license to practice as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the date of application, and is applying for the same or similar license in this state, subject to ss. 469.005(5) and 469.006. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active. To qualify for licensure by endorsement, an asbestos consultant must complete the courses required by s. 469.005(2) and an asbestos contractor must complete the courses required by s. 469.005(3).

Section 3. Subsection (3) of section 489.514, Florida Statutes, is amended to read:

489.514 Certification for registered contractors; grandfathering provisions.—

~~(3) An applicant must make application by November 1, 2021, to be licensed pursuant to this section.~~

Section 4. Section 509.091, Florida Statutes, is amended to read:

509.091 Notices; form and service.—

(1) All licensees and licensed agents must provide an e-mail address to the division to function as the primary method of contact for all communication with the division.

(2) Each notice or inspection report served by the division pursuant to this chapter must be in writing and must be delivered personally by an agent of the division, sent by e-mail, or mailed by registered letter to the operator of the public lodging establishment or public food service establishment. If the operator refuses to accept service or evades service or the agent is otherwise unable to effect service after due diligence, the division may post such notice or inspection report in a conspicuous place at the establishment.

~~(2) Notwithstanding subsection (1), the division may deliver lodging inspection reports and food service inspection reports to the operator of the public lodging establishment or public food service establishment by electronic means.~~

Section 5. Subsection (2) of section 509.101, Florida Statutes, is amended to read:

509.101 Establishment rules; posting of notice; food service inspection report; maintenance of guest register; mobile food dispensing vehicle registry.—

(2) It is the duty of each operator of a transient establishment to maintain at all times a register ~~of, signed by or for~~ guests who occupy rental units within the establishment, showing the dates upon which the rental units were occupied by such guests and the rates charged for their occupancy. Each operator shall maintain this register shall be maintained in chronological order, shall make the register and available for inspection by the division at any time, and may keep the register in an electronic format. Operators need not make available registers that which are more than 2 years old.

Section 6. Subsection (4) is added to section 509.241, Florida Statutes to read:

509.241 Licenses required; exceptions.—

(4) ONLINE ACCOUNT AND TRANSACTIONS.—Each person who plans to open a public lodging establishment or a public food service

establishment and each licensee or licensed agent must create and maintain a division online account and provide an e-mail address to the division to function as the primary contact for all communication from the division.

(a) Licensees and licensed agents are responsible for maintaining accurate contact information on file with the division.

(b) Each licensee issued a license or licensed agent managing a license classified as a vacation rental or timeshare project, as those terms are defined in s. 509.242(1)(c) and (g), respectively, must submit any change in the street or unit address or number of houses or units included under the license within 30 days after the change. All changes must be filed with the division through the division's online system.

(c) The division shall adopt rules to implement this subsection. The rules must specify circumstances under which a person who plans to open a public lodging establishment or a public food service establishment and each licensee or licensed agent may opt out of the requirement to create and maintain a division online account.

Section 7. Subsection (2) of section 548.043, Florida Statutes, is amended to read:

548.043 Weights and classes, limitations; gloves.—

(2) The commission shall establish by rule the acceptable difference in weight between participants; however, the maximum difference in weight in boxing matches shall not exceed 12 pounds, except matches in the cruiser-weight and heavyweight classes and exhibitions held ~~solely for training purposes.~~

Section 8. Paragraph (e) of subsection (7) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(7)

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately. If energy code compliance software is not approved by the commission at least 3 months before the effective date of the updated Florida Building Code, the commission may delay the effective date of the energy provisions of the Florida Building Code for up to 3 additional months.

Section 9. Subsection (1) of section 565.04, Florida Statutes, is amended to read:

## 565.04 Package store restrictions.—

(1) Vendors licensed under s. 565.02(1)(a) shall not in said place of business sell, offer, or expose for sale any merchandise other than such beverages, and such places of business shall be devoted exclusively to such sales; provided, however, that such vendors shall be permitted to sell bitters, grenadine, nonalcoholic mixer-type beverages (not to include fruit juices produced outside this state), fruit juices produced in this state, home bar, and party supplies and equipment (including but not limited to glassware and party-type foods), miniatures of no alcoholic content, nicotine products, and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded.

Section 10. Section 721.075, Florida Statutes, is amended to read:

721.075 Incidental benefits.—Incidental benefits shall be offered only as provided in this section.

(1) Accommodations, facilities, products, services, discounts, or other benefits which satisfy the requirements of this subsection are ~~shall be~~ subject to the ~~provisions of~~ this section and exempt from the other provisions of this chapter which would otherwise apply to such accommodations or facilities if and only if:

(a) The use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation.

(b) ~~The~~ No costs of acquisition, operation, maintenance, or repair of the incidental benefit may not be ~~are~~ passed on to purchasers of the timeshare plan as common expenses of the timeshare plan or as common expenses of a component site of a multisite timeshare plan.

(c) The continued availability of the incidental benefit is not necessary in order for any accommodation or facility of the timeshare plan to be available for use by purchasers of the timeshare plan in a manner consistent in all material respects with the manner portrayed by any promotional material, advertising, or purchaser public offering statement.

(d) The continued availability to purchasers of timeshare plan accommodations on no greater than a one-to-one use right to use night requirement ratio is not dependent upon continued availability of the incidental benefit.

(e) The incidental benefit will continue to be available in the manner represented to prospective purchasers for up to 3 years ~~or less~~ after the first date that the timeshare plan is available for use by the purchaser. Nothing

herein prevents ~~shall prevent~~ the renewal or extension of the availability of an incidental benefit.

~~(f)~~—The aggregate represented value of all incidental benefits offered by a developer to a purchaser may not exceed 15 percent of the purchase price paid by the purchaser for his or her timeshare interest.

~~(f)(g)~~ The incidental benefit is filed with the division for review in conjunction with the filing of a timeshare plan or in connection with a previously filed timeshare plan.

(2) Each purchaser shall execute a separate acknowledgment and disclosure statement with respect to all incidental benefits, which statement must ~~shall~~ include the following information:

(a) A fair description of the incidental benefit, including, but not limited to, any user fees or costs associated therewith and any restrictions upon use or availability.

(b) A statement that use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and that payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation.

(c) A statement that the incidental benefit is not assignable or otherwise transferable by the prospective purchaser or purchaser without the approval of the provider of the incidental benefit.

(d) The following disclosure in conspicuous type immediately above the space for the purchaser's signature:

The incidental benefit[s] described in this statement is [are] offered to prospective purchasers of the timeshare plan [or other permitted reference under pursuant to s. 721.11(5)(a)]. This [These] benefit[s] is [are] available for your use for [some period up to 3 years or less] after the first date that the timeshare plan is available for your use. The availability of the incidental benefit[s] may or may not be renewed or extended. You should not purchase an interest in the timeshare plan in reliance upon the continued availability or renewal or extension of this [these] benefit[s].

~~(e)~~—A statement indicating the source of the services, points, or other products that constitute the incidental benefit.

The acknowledgment and disclosure statement for any incidental benefit shall be filed with the division before ~~prior to~~ use. Each purchaser must ~~shall~~ receive a copy of his or her executed acknowledgment and disclosure statement as a document required to be provided to him or her under pursuant to s. 721.10(1)(b).

(3)(a) In the event that an incidental benefit becomes unavailable to purchasers in the manner represented by the developer in the acknowledgment and disclosure statement, the developer shall pay the purchaser the greater of twice the verifiable retail value or twice the represented value of the unavailable incidental benefit in cash within 30 days after of the date that the unavailability of the incidental benefit was made known to the developer, unless the developer has reserved a substitution right under pursuant to paragraph (b) and timely makes the substitution as required by paragraph (b). ~~The developer shall promptly notify the division upon learning of the unavailability of any incidental benefit.~~

(b) If an incidental benefit becomes unavailable as a result of events beyond the control of the developer, the developer may reserve the right to substitute a replacement incidental benefit of a type, quality, value, and term reasonably similar to the unavailable incidental benefit. If the developer reserves the right to substitute, the acknowledgment and disclosure statement required under pursuant to paragraph (2)(a) must ~~shall~~ contain the following conspicuous disclosure:

In the event any incidental benefit described in this statement becomes unavailable as a result of events beyond the control of the developer, the developer reserves the right to substitute a replacement incidental benefit of a type, quality, value, and term reasonably similar to the unavailable incidental benefit.

The substituted incidental benefit must shall be made available delivered to the purchaser within 30 days after the date that the unavailability of the incidental benefit was made known to the developer.

(4) All purchaser remedies under pursuant to s. 721.21 are ~~shall be~~ available for any violation of ~~the provisions of this section.~~

Section 11. Subsections (2) and (3) of section 721.10, Florida Statutes, are renumbered as subsections (3) and (4), respectively, subsection (1) is amended, and a new subsection (2) is added to that section, to read:

721.10 Cancellation.—

(1) A purchaser has the right to cancel the contract until midnight on of the 10th calendar day after the later of following whichever of the following days occurs later:

- (a) The execution date of the contract; or
- (b) The day on which the purchaser received the last of all documents required to be provided to him or her, including the notice required by s. 721.07(2)(d)2., if applicable.

(2) This right of cancellation may not be waived by any purchaser or by any other person on behalf of the purchaser, and any attempt to obtain a

waiver of the cancellation right of the purchaser is unlawful. If a purchaser waives, knowingly or unknowingly, his or her right of cancellation and a closing occurs, such closing is voidable at the option of the purchaser for up to 1 year after the date that would have been the expiration of the cancellation period under subsection (1). Furthermore, a closing may not occur until the cancellation period of the timeshare purchaser has expired, and if a closing occurs before the expiration of the cancellation period. ~~Any attempt to obtain a waiver of the cancellation right of the timeshare purchaser, or to hold a closing prior to the expiration of the cancellation period, is unlawful and such closing is voidable at the option of the purchaser for up to 5 years after such closing a period of 1 year after the expiration of the cancellation period.~~ However, nothing in this section precludes the execution of documents in advance of closing for delivery after expiration of the cancellation period.

Section 12. Paragraphs (b) and (e) of subsection (6) of section 721.11, Florida Statutes, are amended to read:

721.11 Advertising materials; oral statements.—

(6) Failure to provide cancellation rights or disclosures as required by this subsection in connection with the sale of a regulated short-term product constitutes misrepresentation in accordance with paragraph (4)(a). Any agreement relating to the sale of a regulated short-term product must be regulated as advertising material and is subject to the following:

(b) A purchaser of a regulated short-term product has the right to cancel the agreement until midnight of the 10th calendar day following the execution date of the agreement. The right of cancellation may not be waived by the prospective purchaser or by any other person on behalf of the prospective purchaser. Notice of cancellation must be given in the same manner prescribed for giving notice of cancellation under s. 721.10(3) ~~s. 721.10(2)~~. If the prospective purchaser gives a valid notice of cancellation or is otherwise entitled to cancel the sale, the funds or other property received from or on behalf of the prospective purchaser, or the proceeds thereof, must be returned to the prospective purchaser. Such refund must be made in the same manner prescribed for refunds under s. 721.10.

(e) If the seller provides the purchaser with the right to cancel the purchase of a regulated short-term product at any time up to 7 days prior to the purchaser's reserved use of the accommodations, but in no event less than 10 days, and if the seller refunds the total amount of all payments made by the purchaser reduced by the proportion of any benefits the purchaser has actually received prior to the effective date of the cancellation, the specific value of which has been agreed to between the purchaser and the seller, the short-term product offer shall be exempt from the requirements of paragraphs (b), (c), and (d). An agreement relating to the sale of the regulated short-term product made pursuant to this paragraph must contain a statement setting forth the cancellation and refund rights of the prospective purchaser in a manner that is consistent with this section and s. 721.10,

including a description of the length of the cancellation right, a statement that the purchaser’s intent to cancel must be in writing and sent to the seller at a specified address, a statement that the notice of cancellation is effective upon the date sent, and a statement that any attempt to waive the cancellation right is unlawful. The right of cancellation provided to the purchaser pursuant to this paragraph may not be waived by the prospective purchaser or by any other person on behalf of the prospective purchaser. Notice of cancellation must be given in the same manner prescribed for giving notice of cancellation pursuant to s. 721.10(3) ~~s. 721.10(2)~~. If the prospective purchaser gives a valid notice of cancellation, or is otherwise entitled to cancel the sale, the funds or other property received from or on behalf of the prospective purchaser, or the proceeds thereof, shall be returned to the prospective purchaser. Such refund shall be made in the manner prescribed for refunds under s. 721.10.

Section 13. Paragraph (1) of subsection (4) and paragraph (1) of subsection (7) of section 721.55, Florida Statutes, are amended to read:

721.55 Multisite timeshare plan public offering statement.—Each filed public offering statement for a multisite timeshare plan shall contain the information required by this section and shall comply with the provisions of s. 721.07, except as otherwise provided therein. The division is authorized to provide by rule the method by which a developer must provide such information to the division. Each multisite timeshare plan filed public offering statement shall contain the following information and disclosures:

(4) A text, which shall include, where applicable, the information and disclosures set forth in paragraphs (a)-(l).

(1) A description of each component site, which description may be disclosed in a written, graphic, tabular, or other form approved by the division or provided to the purchaser electronically, including, but not limited to, through a website or other Internet-based access. The description of each component site must ~~shall~~ include all of the following information:

1. The name and address of each component site.
2. The number of accommodations, timeshare interests, and timeshare periods, expressed in periods of 7-day use availability, committed to the multisite timeshare plan and available for use by purchasers.
3. Each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether or not the accommodation contains a full kitchen. As used in ~~For purposes of this subparagraph description, the term “full kitchen” means a full kitchen shall mean a kitchen with at least having a minimum of~~ a dishwasher, range, sink, oven, and refrigerator.
4. A description of facilities available for use by the purchaser at each component site, including the following:

- a. The intended use of the facility, if not apparent from the description.
- b. Any user fees associated with a purchaser’s use of the facility.

5. A cross-reference to the location in the public offering statement of the description of any priority reservation features which may affect a purchaser’s ability to obtain a reservation in the component site.

(7) The following documents shall be included as exhibits to the filed public offering statement, if applicable:

(l)1. If the multisite timeshare plan contains any component sites located in ~~the this~~ state, the information required by s. 721.07(5) pertaining to each such component site, ~~unless exempt under pursuant to~~ s. 721.03.

2. If the purchaser will receive an interest in a specific multisite timeshare plan component site located outside of ~~the this~~ state but which is offered in ~~the this~~ state, the information required by s. 721.07(5) pertaining to that component site, ~~provided,~~ However, for purposes of this paragraph, that the provisions of s. 721.07(5)(t) shall only requires require disclosure of information related to the estimated budget for the timeshare plan and purchaser’s expenses as required by the jurisdiction in which the component site is located.

A developer is not required to file a separate public offering statement for any component site located within or outside the state in order to include the component site in the multisite timeshare plan.

Section 14. This act shall take effect July 1, 2023.

Approved by the Governor June 9, 2023.

Filed in Office Secretary of State June 9, 2023.